The History of European Diplomacy

From the Development of the European Concert Prior to the Peace of Westphalia to the Treaty of Berlin, 1878

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THE HISTORY

of

EUROPEAN DIPLOMACY,

FROM

THE DEVELOPMENT OF THE EUROPEAN CONCERT

PRIOR TO THE PEACE OF WESTPHALIA TO THE TREATY OF BERLIN, 1878

Columbia University

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"Diary of a Spanish Traveller"
Quarterly Review 114: 192 (Jan 1863)

Summary of the work published in Spanish
& relates to the embassy of the Duke de Liria
(one of the Stuarts & son of the Duke of Berwick) to
Russia in 1727-1730

"History of Trenton", by
(Captain) John Furneaux

(mentioned by Houston, "For Secession
of 19th Cent" 1: 195.)



"History of Inventions", by
(Captain) John Furnaux

(mentioned by Houston, "Forerunners of 19th Cent" 1: 195.)



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HISTORY OF DIPLOMACY

INTRODUCTION

Period covered by the Course of Lectures - The Old Diplomacy - The First Permanent Embassies in Europe - The Influence of Modern Democracy on Diplomacy - The Effect of Mail and of Telegraphic Communications on Modern Negotiations - Illustrations of the Widened Scope of Modern Diplomacy - The Origin of the Word "Diplomacy" - The Three Kinds of Diplomatic Communications - The European Concert and the Balance of Power - The Treaty-making Power - The Language of Diplomacy - The Earlier Use of Latin - The Modern Practice.

The period of diplomatic history from the Peace of Westphalia in 1648 to the Treaty of Berlin in 1878 is specially treated, though not exclusively, in this course of Lectures. Westphalia is taken as a convenient date because it marks the time of greatest diplomatic activity in the development of the European system. The Congress of Westphalia was the greatest congress ever held in Europe up to that time. The agreements there made extended down to the Napoleonic Wars with some modifications of course.

The subject of diplomacy is one which presents many features not considered attractive. Diplomacy often exhibits human nature in its worst aspects. This is due to the fact that diplomacy records only the result of [illegible] the public;



and in accomplishing certain definite results men do not exhibit the same degree of moral sense that individuals do in their private acts. When men act in masses as they do in state activity through diplomatic agents, the sense of individual responsibility is lessened. The code of the [illegible] of diplomatists is one of modern growth; it has not conquered the world yet, but exercises a beneficial influence over the diplomacy of the day. So the diplomacy of the present day is far more respectable than it was a century or two ago. The Alumni Bulletin of the University of Virginia, 1899, contains an address by Prof. Moore on the old diplomacy. There were perils to which ambassadors were then exposed -- International Law was then only in its infancy -- and the ambassador's person was often the object of violence.

Permanent embassies first became general in Europe in the early part of the 16th century. They were first introduced in the states of Italy. The earlier ambassadors had a large number of attendants, and there were many disputes on points of ceremony and preference; the principle of equality was not then recognized, and nations strove to outdo each other in the splendor of their embassies. In reference to ceremonial questions, see a work by Sir John Finett, "Some Choice Observations touching the Reception, the Precedence, the Treatment..and Contests of Former Ambassadors in England," published, London, 1656. France claimed primacy in all ceremonials up to the end of the 18th century. One of the causes of the war between France and Portugal in 1672 was this claim of primacy: The opening of the congress of Westphalia was delayed for more than a year, owing to questions concerning privileges of precedence and dragged along for four

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years, owing to delays caused by questions of etiquette etc. Macaulay gives a good account of the ceremonials etc. of the old diplomacy (1).

With the development of great popular forces which control political events in more recent times, the old diplomacy gave way to one attended with less pomp and ceremony; national interests became paramouth to those of kings and ministers and developed a simple, practical and inexpensive system. In former times it was the custom for a monarch to whom an embassy was sent to pay the cost of living of the members of the embassy; in lieu of this there was introduced the custom of making presents to ambassadors at the end of their stay. In 1651 the Netherland forbad her ministers to take any presents directly or indirectly.

There was the greatest need for a change in the method of conducting international intercourse. The old diplomacy was exceedingly corrupt; the idea was that an ambassador was "sent abroad to lie for his country". Indeed, ambassadors often acted more as a spy and conspirator than as a promoter of friendly intercourse.

In modern times there has been a decline in the ambassadorial office owing to mail and telegraph; these facilities for communication have affected diplomatic negotiations in an important respect. The discretionary power formerly given to diplomatic agents has been curtailed, and negotiators are required to make constant reports to the home office. But while the discretion and responsibility of the diplomatic agent in discussing questions is lessened, his difficulties in acting have increased. He must not only persuade and convince his op-

ponent, but must be prepared at all times with tact and skill to adjust his course to his instructions which, while reflecting public sentiment at home, are formulated without that full appreciation of the diplomatic situation which one in the field has. Rapidity in disseminating the news tends to create sudden perils requiring intelligence and skill. Appropriate words spoken at certain moments may lead to peace and avoid war. Artificial contrivances cannot displace personal influence; personal contact is necessary for the control of affairs between man and man.

The greatest increase of importance grows out of the increasing and varied complexity of modern international relations. A great part of the diplomacy of today relates to matters which lay outside of the diplomatic relations of the earlier period. Colonial expansion has created a new balance of power, and brought nations face to face all over the world. New questions have arisen for adjustment, and nations have come more and more to feel interdependence and the necessity of co-operation in the promotion of interests common to all.

By way of illustration, reference was made to the African slave trade and international action concerning it; the Treaty signed at Brussels July 2nd, 1890 with its plan of joint action etc., the Geneva Red Cross Concert, and the Hague Congress of 1899. The text of the "Red Cross Convention" is in the Treaty volume of the United States "Treaties and Conventions between the United States and other Powers, 1776-1909". This is a government publication and is out of print. There has been no authoritative publication since 1909; [illegible] out the later treaties from the Department of State and the Statutes at Large

As to the terms "Treaties" and "Conventions", there is no fixed distinction between these two terms. As we use them in the United States "convention" is "broader" than "treaty". Our constitution provides that treaties shall be entered into with the advice and consent of the senate. But this is a matter of our own constitutional law merely. No text writer would use the term in this restricted sense. We would naturally call any international agreement between the United States and a foreign Power which was not submitted to the senate a "convention" and not a treaty. So the volume just referred to is supposed to contain all our international agreements down to 1887; but it does not for there were some that were not known.

... The text of the Red Cross Convention is at page 1150 et se of this volume of "Treaties and Conventions between the United States and other Powers". Articles IV, V, VI, and VII of this convention read in the class-room. At page 1153 there is an additional article introduced for the purpose of extending the provisions of the convention to naval forces etc., but this article never became internationally effective; the ratifications were never exchanged. In the war between the United States and Spain these articles were adopted by the two governments for the purpose of the war. At the Hague Conference new articles were formed. The record of the Hague Conference will be found in the work entitled "Conference Internationale de la Paix. La Haye, 18 Mai 29 July 1899". This volume contains all the conventions adopted there - three conventions and three declarations.

The diplomacy of the present day is concerned with the rights of property: In 1883 a number of the Powers in America

and Europe joined in an international agreement for the "Protection of Industrial Property". For text see p.1168, Treaty volume of the United States. The Countries party to it were: Belgium, Brazil, France, Guatemala, Italy, Netherlands, Portugal, Salvador, Serbia, Spain, Switzerland and it was acceded to by Dominican Republic, Great Britain, Sweden and Norway, the United States and Tunis. Article II states the object of the convention: It is to enable aliens to enjoy the same rights as citizens in trade-marks, commercial names and patents for inventions.

In 1884 there was signed at Paris a convention for the "Protection of Submarine Cables". For the text see p.1176 of the Treaty volume. Prabtically all the maritime Powers were party to this convention. Article II gives an outline of the general character of the convention. It is as follows:

> The breaking or injury of a submarine cable, done willfully or through culpable negligence, and resulting in the total or partial interruption or embarrassment of telegraphic communications, shall be a punishable offense, but the punishment inflicted shall be no bar to a civil action for damages.
>
> This provision shall not apply to ruptures or injuries when the parties guilty thereof have become so simply with the legitimate object of saving their lives or their vessels, after having taken all necessary precaution to avoid such ruptures of injuries.

There was some discussion as to submarine cables in the war between the United States and Spain. Article XV provides that the convention shall not affect the liberty of action of belligerents.

There is one other international convention which is important but to which the United States is not a party. It is of September 9, "International Copyright Convention", commonly called. Most of the European nations were party to this convention, but not all of them. The United States was not a party for

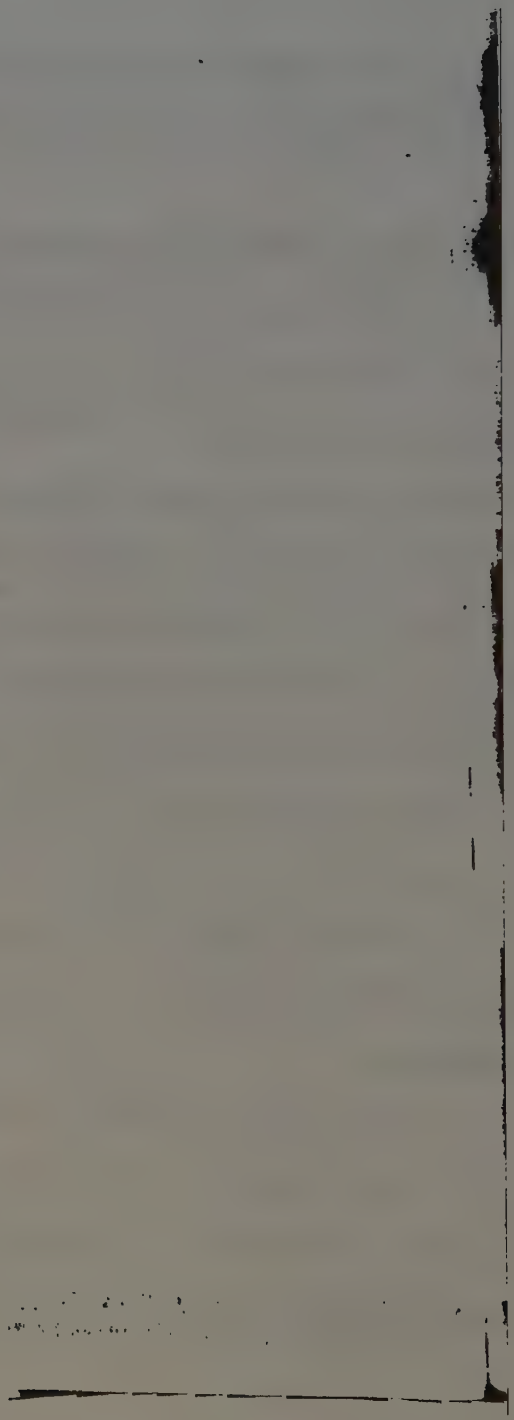
at that time we had no international copyright legislation at all. In 1891 Congress passed a law giving certain rights to foreigners (United States St.at Large (1889-1891) Vol.26 pp. 106-1110).

In 1893 Great Britain and France negotiated certain point in regard to oyster-beds. In 1892 there was made an agreement between U.S. and Great Britain for the Fur seals in North Pacific Ocean. The subject matter of these recent conventions show that there is a wider scope for diplomacy at the present time, than in the earlier days.

We will now resume the history of diplomacy. The word "diplomacy" in its origin is only slightly indicative of its present use. The word 'diploma' means folded or double, and had reference to two leaves or documents, and from this it has been applied to the acts between two states and acts of a public character, recorded in two sets of documents, one for each state. In the course of time these documents became a matter of expert study; this was known as "diplomatics", and is not to be confounded with "diplomacy". The greatest work on this subject is one by the Benedictine Monk, Dom Mabillon, 'De re diplomatica' 1681. The term 'diplomacy' had the same origin, but it is employed now to signify the conduct of negotiations between the representatives of different states rather than the study of ancient documents.

There are three kinds of diplomatic communications:

1) Instructions; 2) Dispatches; 3) Notes. "Instructions" are the directions sent by a government to its own representative abroad; "Dispatches" are sent from the diplomatic agent to his own government; and a "Note" is a communication sent by the representative of one nation to the Foreign minis-



ter of the nation to which he is accredited, or vice versa, etc.

In this systematic development, diplomacy is of modern origin. The word came late in use in the English language. I have seen it stated that it is not in Johnson's dictionary. The profession of diplomacy grew out of the rise of the European concert in the political reorganization of Europe after the fall of the Roman empire. Yet we find at early times many things which are phrophetic of the modern system.

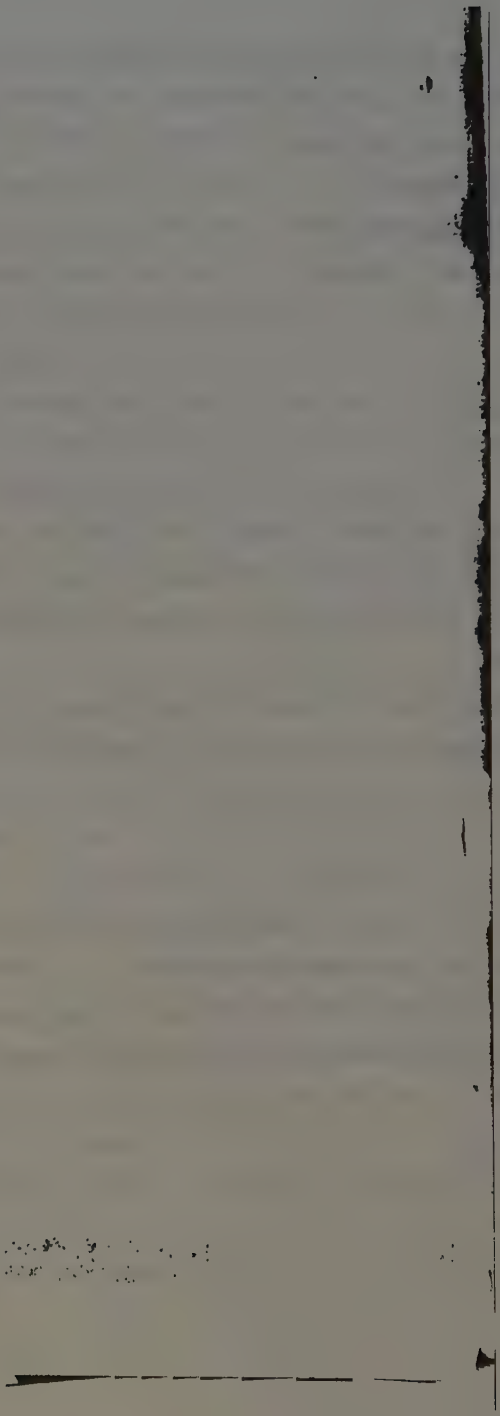
Now what is called the European Concert embraces the Christian powers of Europe, and admits to a certain participation countries like Turkey and Persia. Turkey was formally admitted by the Treaty of Paris 1856. Turkey and Persia, however, occupy a subordinate place and are not on a basis of equality. The principle of equality was formerly recognised only among Christian powers. In Grocius you will find the question raised whether or not a Christian power may not break its treaty with heathen powers. He held, not; but it was an open question in his time. But in the 19th century religion ceased to be the test of admission to European council.

By "European Concert" I refer to the concert of the European powers and the co-operation of European powers for the accomplishment of certain ends, the object being the balance of power. The position of Turkey is much stronger since the war with Greece, yet Turkey is not treated on grounds of equality. The Christians were considered unclean and not fit to participate in the affairs of Mohammedan Turkey; that fact was really the origin of extraterritoriality in Turkey. Many say that the term, "European Concert" is a misnomer, but still it is a term of diplomacy. The meeting of the powers is often anything but a

concert,but yet it is a term in general use in diplomatic circles. What they call the "European Concert" is not confined to the parties to the treaty of Paris of 1856,but includes all the Powers of Europe; it is a term of very extensive meaning. The term "European Concert" is really used to describe the diplomatic system of Europe. It is a technical term of diplomacy.

The great end of the European Concert or the European diplomatic system is to preserve the "balance of power", the status quo. If any Power attempts to disturb this equilibrium, the Concert of Powers is invited to check it as too ambitious; that is what happened in the Russo-Turkish war. Russia made a treaty of peace with Turkey by which she got more than England thought was right,and so she demanded that the treaty be submitted to the Powers. This was done; and Bismark presided at the meeting.

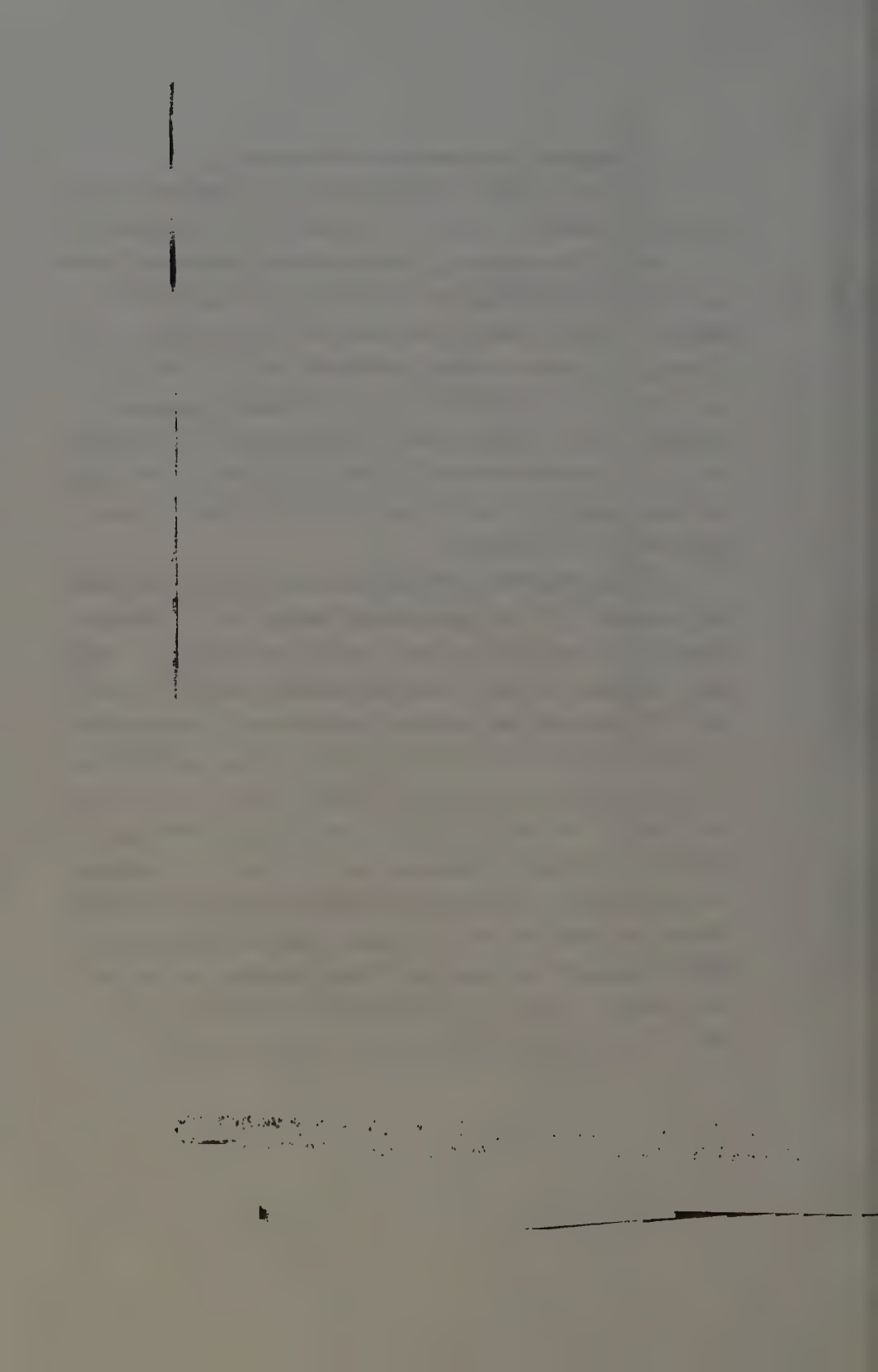
Japan is now a member of the "Concert of Powers", or "The International Circle"; she has no disabilities. The disabilities under which Turkey rests differ in regard to the subjects of different Powers. The U.S. claims a more extensive exemption from any of the other Powers. The treaties of the Belgians and of Portugal impose the English text. But the other Powers do not claim as much exemption as we do; for example, if a British subject injures a Turk and if capital sentence is imposed upon him, it is not executed unless England consents. But we claim the right to try in the consular courts; that claim is based upon what we now admit to be an erroneous sentence in the treaty. Turkey wants to get rid of this extraterritoriality. She would have some chance of doing so if her courts were not so corrupt; justice is bought and sold and that stands in the



way of an exemption from this extraterritoriality.

Now as to the treaty-making power: The actual conduct of diplomatic affairs is lodged in the head of the State, whether it be popular or a monarchy. In England the treaty-making power is in the sovereign, King or Queen as the case may be; but Parliament holds a check on the exercise of this power. It is controlled by appropriations; the courts will not enforce, until Parliament has endorsed it. Now Parliament has passed a general law under which a treaty can be passed. In the United States the preliminaries are through the Secretary of State, but in making treaties it can be done only by and with the advice and consent of the Senate.

At the present time the language most in use in diplomacy is French, but it is not so generally employed as it was fifty years ago. In the 16th and 17th centuries the language of diplomacy was Latin. In 1666 a Swedish minister complained of delay of 14 days and then sent out to one Milton, a blind man to be translated into Latin. Milton had not at that time had his famous controversy; he was then Cromwell's Latin Secretary, and so it fell to him to do it. In the time of Louis XV French became the language of diplomacy. But now there is a tendency to put proposals etc. in ones own language. German, Spanish and English are much used. English speaking nations negotiate in English altogether and put their treaty in final form in the same language. German legates use German, and Spanish use Spanish; but finally both these Powers employ French.



CHAPTER I.

BASIS OF EUROPEAN DIPLOMACY PRIOR TO THE PEACE OF WESTPHALIA.

Papal control in Political Affairs - The Diplomatic Negotiations of William the Conqueror prior to his Invasion of England - Freeman's estimate of William's statesmanship and diplomacy - The Expedition of Charles VIII of France against Naples and its Influence on the development of European Diplomacy - Participation of England in European Politics under Henry VIII - Distinguishing Characteristics of the German or Holy Roman Empire - The Papal Bull dividing newly discovered lands between Spain and Portugal and the ratifying Treaty of Tortesillas June 7, 1494 - Contest between Charles V of Spain and Francis I of France for the Imperial Crown.

After the disintergreation of the Roman Empire which left the world without any secular power, the Bishop of Rome sought to exercise temporal authority co-extensive with the empire and as the head of the Church to control Christians in their political relations. This assumption of authority by the Pope offered the princes a means of escape from war by submitting their differences to an authority which claimed for its judgments a more than an earthly sanction. Such a submission had no degradation but was a matter of duty; but if submission was withheld and obedience refused the head of the Church exercised his authority over the people, even in some instances to the extent of absolving them from their oath of allegiance to the prince, and then forced the latter to yield.

Long prior to the Peace of Westphalia we find the basis of

of modern European diplomacy; yet that peace is a convenient date for beginning our discussion. Freeman in his short history of William the Conqueror (1) makes much of the circumstances under which William took possession of England or the steps which he took prior to going over to England, in the development of European international law.

Now the condition of things which existed in Europe at that time is well illustrated by this incident in the life of William the Conqueror: Somewhere between 1060 and 1066, the Earl of Harold of England was in the dominion of William of Normandy afterwards known as William the Conqueror. William took advantage of his presence there to exact from him an oath. At that time the only safety was to keep out of the territory of other princes. Harold took the oath demanded, and afterwards William charged him with not keeping it. In 1066 Harold was crowned King of England and William at once set up a claim to the throne alleging that Harold had renounced it in his favor by the oath he took in Normandy. Harold refused to yield the crown and William undertook to depose him. In entering upon this project the first thing William did was to send out embassies to foreign powers - at that time they had no permanent representatives. One was sent to Germany, one to Denmark, one to France, but the most important one was that to the Pope. This was the most important because William wanted to insure the sanction of the Pope for what he was about to do. He laid his case before the Holy See, and Harold was declared to be a usurper and was excommunicated, and the right of William to the crown became a perfect title; moreover, William was assigned to chastize the usurper. In less than a year Harold was dead, his force worsted

and William was master of England.

It is a significant fact that William did not attempt to do this until he had conferred with the other powers of Europe. In his life of William the Conqueror, Freeman, after describing the rival claims to the throne of England, says:

The case thus put seemed plain to every Englishman, at all events to every man in Wessex, East-Anglia, and Southern Mercia. To the greater part of Western Europe William's claim might really seem the better. William himself doubtless thought his own claim the better; he deluded himself as he deluded others. But we are more concerned with William as a statesman; and if it be statesmanship to adapt means to ends, whatever the end may be, if it be statesmanship to make men believe that the worse cause is the better, then no man ever showed higher statesmanship than William showed in his great pleading before Western Christendom. It was a sign of the times that it was a pleading before all Western Christiandom. Others had claimed crowns; none had taken such pains to convince all mankind that the claim was a good one. Such an appeal to public opinion marks on one side a great advance. It was a great step towards the ideas of International Law and even of European concert. It showed that the days of mere force were over, that the days of subtle diplomacy had begun. Possibly the change was not without its dark side; it may be doubted whether a change from the fraud is wholly a gain. Still it was an appeal from the mere argument of the sword to something which at least professed to be right and reason. William does not draw the sword till he has convinced himself and everybody else that he is drawing it in a just cause. In that age the appeal naturally took a religious shape. Herein lay its immediate strength; herein lay its weakness as regarded the times to come. William appealed to Emperor, kings, princes, Christian men [illegible] in short Christian Law. He would persuade all; he would ask help of all. But above all he appealed to the head of Christendom, the Bishop of Rome. William in his own person could afford to do so, where he reigned, in Normandy or in England, there was no fear of Roman encroachments; he was fully minded to be in all causes and over all persons within his dominions supreme.....pp.66-68

The appeal was strangely successful. William convinced, or seemed to convince, all men out of England and Scandinavia that his claim to the English crown was just and holy, and that it was a good work to help him to assert it in arms. He persuaded his own subjects: he certainly did not constrain them. He persuaded some foreign princes to give him actual help, some to join his muster in person; [illegible] to hold back for the most part from hindering their subjects from joining him as volunteers. And all this was done by sheer persuasion, by argument good or bad. In adapting of means to ends, in applying to each class of man that kind of [illegible] which [illegible] (p.68).

I do not think that diplomacy is a change from force to fraud. That statement of Freeman is historically inaccurate, for to support it you must assume that force had always been used in the right and that diplomacy was to be used for fraud; yet in the records of diplomacy fraud is very apparent.

We thus find in early history that there were examples of diplomacy; earlier than the Peace of Westphalia which is usually spoken of as the European Concert. For further light on the earlier development of diplomacy, I will refer you to Prof. Nys, "Les Origines du Droit International, 1894" (2). In chapter XIV, p.295 et seq., you will find much that is interesting. (Selections trans. in class by the Professor). Machiavelli, Middle Age etc., thirteenth century and after. At first it is only transitory, then more stable and lasting, and finally permanent embassies, which is followed by the creation of an office of Foreign Affairs. Nys traces the development of diplomacy in the 14th century in Italian cities, and gives various examples of permanent embassies.

As the power of the Pope declined, a marked change took place in the affairs of Europe. An evidence of the developement of a new order of things may be found in the expedition of Charles VIII of France against Naples, for the possession of which the house of Aragon and Anjou had long disputed. As the heir of the latter Charles proposed an expedition for the conquest of the Neopolitan kingdom, and in order to give his design the color of piety, he proclaimed an intention afterwards to march against Constantinople and to expel the Turk from Europe. Marching, then, against Naples he soon made a conquest of the kingdom and set up the power of France in Italy. His

had received at the hands of Charles VIII., while Ferdinand of Spain was averse to see the bastard branch of the house of Aragon driven from Naples, and the French established in such near proximity to his own kingdom of Sicily. Under these circumstances a treaty of alliance was signed at Venice, March 31, 1495, by the Emperor Maximilian, the Spanish monarch, the Pope, the Venetian Republic, and the Duke of Milan. Although Bajazet II was no party to the treaty, his ambassador had taken part in the negotiations, and he offered to assist the Venetians with his force against the French. Florence refused to join the league. This treaty is remarkable as the first example in modern history of extensive combinations among European potentates. To all appearance the alliance was a merely defensive one; but the contracting parties had secretly agreed to assist Ferdinand II against the French, and to make a diversion on the territory of France. The fruits of it soon began to show themselves. The Pope refused Charles VIII. the investiture of Naples; a Venetian fleet appeared on the coast of Apulia; and a Spanish army landed in Sicily. When Charles found that he could expect neither coronation nor investiture at the hands of the Pope, he resolved to dispense with both, and to supply their place by the ceremony of a solemn entry into Naples, which he accordingly performed, May 12th 1495, in the costume of Emperor of the East; a scarlet mantle trimmed with ermine, a crown closed in front, a golden globe in his right hand, the sceptre in his left.

Although Charles had perhaps determined to abandon his new conquest before he heard of the league which had been formed against him, the intelligence of it certainly quickened his movements. (pp. 212-213).

This league embodied the principle of the European Concert

The character of the league, however, differed in many important respects from that of the European concert of today. Then, there was a preponderance of dynastic interests; to day we have interests that are national rather than dynastic. Then, the Pope was a party and an important party of the league; today, he is not a factor in political alliances. But these things serve to mark a transition in respect to the parties who negotiate rather than a change in the purpose of diplomacy.

England was swept into the vortex of European politics and diplomacy in the time of Henry VIII. You will find an account of this in Creighton's Life of Cardinal Wolsey (Early English Statesmen Series). Henry's diplomacy was guided by Cardinal Wolsey, and it was through Wolsey that he became interested in

European politics, Woolsey having also ambitions of his own.

We have referred to the Empire which always means at that time the German Empire. It is important to understand just what that was: It was a collection of practically independent states. While they were nominally ruled by a king, his tenure was elective and not hereditary. He was chosen by seven electors - three clerical and four lay. Bryce's Holey Roman Empire is the most convenient place to find out about this. The person so chosen was regarded, more as a matter of fiction than of reality as the head of the Holy Roman Empire. He was called "King of the Romans" and on his coronation he received the title "Emperor". But although he had the highest title in Europe he had single handed the least power. He was unable to control those who elected him, and their desire to preserve their independance stood in the way of any attempt to unify the country Nevertheless, to unite the German crown with that of another country was a project which excited ambition. Any old collection of documents will show many arbitrary decrees of the Emperor; he had a position of arbiter often in disputes between members of the Empire. The imperial crown finally became practically hereditary in the house of Hapsburg and in the time of what we call Emperor Charles V who was King Charles I of Spain, there were the Austrian dominions, the German empire and all the possessions of Spain united in the same hand. As king of Spain Charles had the Netherlands, Naples and Sicily and the discoveries of Columbus and others had added territories of unknown extent. As the grandson of Maximilian he succeeded to the Duchy of Austria and he was by far the most powerful ruler in Christendom. When he was elected Emperor the crown had been in the house of the Hapsburgs three generations.

When the discovery of Columbus was announced, the Pope by a bull in 1493 undertook to divide the unknown world between the crowns of Spain and Portugal. But unknown world did not convey as much then to them as it does to us; it is hard to say what idea it did convey to them. One of the early maps shows only a little disc of land; hence when the Pope divided the unknown world in reality it signified nothing substantial. Yet we think of the Pope as dividing the world as we now know it, which was not the case. The act of the Pope was confirmed by the Treaty of Tordesillas June 7th, 1494. That bull, as confirmed by the treaty with some modifications, divided the unknown world between Spain and Portugal by a line running a certain number of miles West of the Azores; it is not known at the present time just where the line was to run, for we do not know just what they meant by the terms then used. There are two schools of interpretation - those in favor of the Spanish and those in favor of Portugal. But it gave Portugal very little of what is now known as South America. Brazil etc. won by conquest. The Philippine Islands, by a correct drawing of the line would belong to Portugal on the other side of the world. I have here a map, but it is not satisfactory. Map exhibited.

You will find the text of that bull in Dumont's Corps universal diplomatique. In territorial disputes down to 1700 and even to 1750, Spain and Portugal kept referring to this treaty of Tordesillas of 1494 which confirmed the bull of the Pope. And President Cleveland referred back to the treaty of 1750. Incidental reference was also made by Prof. Moore to the Franco-Brazilian boundry dispute (cf. p.___). The Brazilian case was written up by a very brilliant man, Baron Rio Branco who

who defended the claims of Brazil before the President of Switzerland as arbitrator.

Charles V of Spain was elected Emperor of Germany in 1519 He was then only 19 years. Francis I of France was the principal contestant for the imperial crown. Francis was much embittered by his defeat and began to prepare for war against Charles V, Emperor; and besides this feeling growing out of his defeat, there was the apprehension of what we find so much expressed in European diplomacy, of what they call "universal dominion". They speak of it now. The fear is now of Russian "universal dominion." They have always had this fear of universal dominion in Europe. The situation at the time of which we are speaking was somewhat like that of 300 years later in the time of Napoleon, with the difference that France stood in her resistance to Emperor Charles, where England stood 300 years later in her resistance to France or Napoleon.

Seeing that there was to be a conflict, Francis and Charles both sought for allies, and the first whose favor they sought to gain was Henry VIII of England. Henry's position was peculiar; he had been a secret candidate for the position of Emperor and had endeavored to secure the influence of the Pope for his candidacy. The fact is that the Pope Leo XIII had instructed his legate to hint to Henry that third candidate was desirable as he was distrustful of Charles and Francis. Henry took the hint to himself, but the agent from England found the Pope indisposed to commit himself to the king. Henry held himself open to the solicitations of both Charles and Francis. You will find a full account of this in Creighton's little book referred to above. Henry had by this time obtained a very commanding

position,holding the balance of power between the Empire and France. The Venitian (Vatican ?) ambassador writes that the bishop was seven times more powerful than the Pope. When the collision came Henry was found to be on side of Charles.

But about this time a new movement began to be felt and it spread so rapidly that it soon overpowered all other questions. The Reformation,begun in Germany affected more or less the politics of all Europe and for nearly 100 years gave rise to a series of intrigues and armed contests which disturbed the struggles for national supremacy which had been in progress the last part of the 15th century and the beginning of the 16th century. While the diplomacy of Europe was thus complicated by questions growing out of the Reformation, this contest for supreme power was in progress between the house of Hapsburg now represented by the Emperor Charles V, and the kingdom of France represented by Francis I. (Till.pp.300-308).

It has often been observed that if Luther had taken his stand in France,Spain or any other strongly centralized government he would have been crushed,but in Germany the conditions were most favorable to him; the Empire was one in name merely rather than one in reality. The representatives of the little states made war with one another and exercised other rights of sovereignty. The only approach made to a federal assembly was in the diet but this was a very ineffectual body; it was divided into three houses or chambers each of which sat separately and were unequal in dignity and power. The first chamber was composed of the seven electors;the second was composed of the princes,lay and ecclesiastical; and the third,of the deputies of the free imperial cities. The last house was considered in-

ferior to the other two and was not consulted until they had agreed upon something to submit to it. In times of turmoil this diet was likely to be divided against itself, the two upper houses standing together and the third which was more popular in character arrayed against them. When the question of Protestantism came before the diet the diversity of sentiment was complete and even the two upper houses were divided: The ecclesiastical delegates proposed toleration, while the majority of the laymen were in favor of it but not strong enough to carry the cause in the diet. Luther was excommunicated by the Pope and Charles V placed him under the imperial bann but Frederic of Saxony, commonly called "Frederick the Wise" afforded him shelter and protection. Germany was then divided on the subject of the Reformation.

In 1530 a Protestant league was formed at Schmalkaldie of Protestant princes and imperial cities, and two years later Charles V annoyed by Turkish attacks, concluded a peace at Nuremberg by which it was agreed that the Augsburg edict was revoked, and that the Protestants should enjoy the free exercise of their religion without molestation until the meeting of a new religious council which should meet within a year to act on the subject of religious difficulties.

Meanwhile Francis I endeavored to form alliances with the Protestant princes in Germany and failing in this, he entered into the unprecedented step of entering into an alliance with the Turks; and he also made important treaties with Denmark and Sweden. In 1547 Francis I died. In 1555 Charles V, desirous of resigning the cares of government, transferred the Netherlands and the Italian provinces to his son Philip, known in history as

Philip II, and in 1556 resigned in Phillip's favor the crown of Spain. He also abdicated the imperial office and recommended as his successor his brother Ferdinand. Two years later he died.

Before this there had set in what is known as the counter Reformation of which Philip II was the chief expositor. Philip was then the most powerful prince in Christendom. He was king of Spain and of her provinces in the New World, of the Netherlands and of Naples and of Milan. In 1580 he finally annexed Portugal to his dominions. But his chief passion was religion rather than politics and his measures against heretics aroused opposition which, under the leadership of William of Orange, resulted in the independence of the seven Northern provinces of the Netherlands which formed the basis of the Dutch Republic.

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CHAPTER II.

THE THIRTY YEARS' WAR AND THE PEACE OF WESTPHALIA.

The cause of the Thirty Years' War - Events leading to the Outbreak of the War - Contest between France and the House of Hapsburg and the Progress of the War - Dominating Influence of Richelieu - Spanish Invasion of Italy checked by the French - Participation of Christian IV of Denmark and of Gustavus II of Sweden in the War - Events that closed the War - Preliminary Negotiations for Peace - Delay over Questions of Etiquette - The Congress of Westphalia and the Powers represented - The matter of full Powers in Diplomatic Negotiations - The Definitive Treaty of 30 January 1648 by which Spain granted Independance to the Dutch Netherlands - Importance of this Treaty in Modern Diplomacy - The Conclusion of the Treaties of Westphalia 24 October 1648 - General Summary of the English Treaty Signed at Munster - Effect of the Peace of Westphalia on the Germanic Empire - Selections read from Wheaton and Westlake - Westlake's Estimate of the Peace of Westphalia.

(Tillinghast, pp.309-317; cf. 318-326, 330-331)

The closing scene of the period of religious warfare in Europe is found in the Thirty Years War. It broke out in Germany in the 17thcentury and ultimately involved all Europe. We have seen that the Peace of Nuremberg (supra p.28) granted a toleration pending the settlement of religious questions by a diet or religious council. Attempts were subsequently made to settle those questions by force. In 1555 a diet was assembled at Augsburg (Dumont, U.S. IV 3,88). One of the most important questions that came before this diet was that of the disposition of ecclesiastical property in the dominions subject to

Protestant princes; much of this property had been seized by these princes, some of it being secularised and the rest devoted to the support of Protestant worship. As to this there was little done, the part of wisdom being adopted as treating an accomplished fact (as) what was irreversable, but trouble arose in the attempt to provide for the future. The Protestants demanded that where a bishop or abbot should in future turn to Protestantism, he should be allowed to hold his place and to carry his people with him. The opponents refused to yield on this point, and it was in the end agreed that where such a change took place the bishop or abbot should vacate his office. This agreement was known as the "Ecclesiastical Reservation" (cf. (Tillinghast p.306). The Peace thus fell far short of the mark of toleration and questions continued to arise to which this provision did not apply. The Protestant princes were indisposed to yield their prerogatives in regard to the regulations of the religion of their subjects and claimed the power to continue to secularize church lands. The "Ecclesiastical Reservation" did not in terms cover this subject as it specified only a bishop or abbot who changed his religion. It was contended by the Protestants that it did not apply in the case of a Chapter which having become Protestant itself, elected a Protestant Bishop; such an officer could hold his office without molestantion, and in this way may bishoprieks were filled with Protestants. It was this question and that of the secularising of the church lands, which more than any other brought on the Thirty Years War. There is a small work on the Thirty Years War by Gardiner.

In the early part of the 17th century Germany was divided on the contest between Catholicism and Protestantism into

three parties under the leadership of John George, the Lutheran elector of Saxony; Christian, the Calvinist, and Maximilian the Catholic duke of Bavaria. The first was disposed to resort to force; the second and third, to controversy. A conflict was avoided till an incident in the history of the House of Hapsburg furnished an immediate occasion for war. We have seen that the House of Hapsburg in the person of the Emperor, Charles V, possessed both the imperial power in Germany and the royal power in Spain. On his death, or resignation, those two offices were divided and his brother Ferdinand was elected to the office of German Emperor. Now Ferdinand as head of the House of Hapsburg divided his territory between his three sons. To Maximilian, who became Emperor Maximilian II, he left Austria, Hungria and Bohemia; to his son Ferdinand he left Tyrol, and to his son Charles Styria and Carinthia. Now in 1606, coming down a generation later, Rudolph II, a son of Maximilian and his successor as Emperor, ruled as head of the House of Hapsburg over Austria, Bohemia and Hungria. His brother, Maximilian possessed Tyrol, and his cousin, Ferdinand governed Styria, Carinthia and Carniola (Willinghast p.305). Rudolf had been much harrassed by the Turks in his Hungarian dominions - the Hungarians stood for a long time as a sort of barrier between the Turks and the rest of Europe. In 1606 however, he concluded a Peace with the Turks and he then turned his attention to the repression of Protestantism in his own kingdom. He soon drove his subjects into open revolt, and in Hungary they gained a substantial independance. Matthias, Rudolf's brother, took the lead of the revolt against Rudolf and compelled the latter to transfer to him Austria and Hungria, Rudolf to retain Bohemia, Moravia and Cythia

for his life-time. In Bohemia in 1609 Rudolf was forced to grant by Royal Charter (Majestatsbrief) liberty of conscience, but not liberty of public worship; there is a distinction betwee the two. But he immediately endeavored to rid himself of this obligation and in consequence he was dethroned in Bohemia by his brother, Matthias, who also became Emperor (1612). But this change did not result in securing to the Bohemians the benefits of the Royal Charter. Matthias sought to control Protestantism and this stired up a spirit of opposition which was prevented from breaking into open revolt by the fact that he was old and like to die. In 1617, however, a diet was suddenly summoned to settle the question whether the succession to Matthias should be elective or hereditary and, overawed by the court, the diet found in favor of the hereditary succession, which came to Ferdinand of Styria who was a strict Catholic and a religious devotee; and this fact, when he exceeded his power, as well as discontent with the decision of the diet, led to an attempt in May 23rd, 1618 to dethrone him by force. This was the first act in the long drama of the Thirty Years War.

Speech of Balfour took not much interests in the religious wars of the 16th and 17th centuries. We should look for other elements than that of religion in studying this period. Despots kept their ear to the ground (Dicey); they had to listen to the popular sentiment.

Ferdinand had secured his election as the king of Hungary and he returned to Vienna and levied more troops to oppose the revolution. Then the Bohemia subjects obtained aid from Charles Immanuel, Duke of Savoy and soon the war was in full progress.

In 1619 the attempt was made to depose Ferdinand, and Frederick V the elector of Palatine was elected and crowned on

his place at Prague November 4th. In 1620 with the aid of Maximilian of Bavaria, Ferdinand defeated Frederick and drove him from the kingdom. The cause of the House of Hapsburg was thus triumphant. The lower Palatinate was conquered by the Spaniards and the upper Palatinate by Bavaria, both allies of Ferdinand. Here is a map of Germany about the middle of the 17th century and you can see the importance of the Palatinate, Lower and Upper. The Upper Palatinate bordered on Bavaria.

Now at this moment France appeared on the scene. We have seen that there existed between France and the House of Hapsburg a feeling of jealousy and a contest was going on between them. This idea of supremacy was a guiding principle of Henry IV who sought to arouse against the Austro-Spanish power, all the hostile power in Italy, Germany, Netherlands and the Northern States. Henry hoped in this way to destroy the Hapsburg supremacy and in its pellace to establish a European system of which France should be the head. This idea fully possessed the mind of Louis XIII and in 1622 when the Palatinate was reduced by Spanish and Bavarian troops in league with the House of Hapsburg, he arrayed himself in conflict against the power of Austria.

In 1624 there came to his counsel board a great statesman who was not destined to remain there many years - Richelieu of whom the following description has been given:

On the 4th of May 1624, Richelieu for the second time took his seat at the council board, which he was henceforth to retain for life. He was not in his thirty-ninth year. His appearance and address were rather striking and imposing, than attractive or calculated to inspire confidence. His complexion was pale, his hair black and flowing; his eyes, though large, were lively and penetrating, and their effect was heightened by strongly marked brows. His forehead was high, his nose aquiline; his well chiselled mouth was surmounted with a mustachio, while

a small pointed beard completed the oval of his countenance. His features were an expression of severity; his walk, though noble, was somewhat brusque; his discourse wonderfully lucid, though without much charm or attraction. (History of Modern Europe, by Thomas Henry Dyer, Vol.II, p.525).

It has been said that Richelieu when a youth proposed a plan for the debasement of the House of Austria. When he came to the council of Louis XIII he soon obtained a position of absolute supremacy. Louis XIII though ambitious was fond of pleasure and ease. The great works at Versailles were begun under Louis XIII; there were 30,000 men and 6,000 horses at one time at work; he spent something like $100,000,000; living on elaborate scale and ambitious views.

Richelieu like Francis I persecuted Protestants at home while he courted their alliance abroad. And he soon found an opportunity to participate in the Thirty Years War on the Protestant side. In 1624 the Spaniards took possession of some new territory in Italy with a view to open a way from their possessions in Italy and in Austria lands in Germany. The French attacked them and drove them out, and by treaty with the Spanish this territory was restored to the Protestant community which had previously held it.

The war which had then begun, attracted the attention of all Europe and other powers soon entered the arena. Christian IV of Denmark was interested in the maintenance of the protestant bishoprieks since he had obtained one for his son in the jurisdiction of the German Emperior. This together with his desire to extend the maritime power of his kingdom made him an interested spectator of the war, but there was yet another prince cast in a larger mould than Christian; this was Gustavus Adolphus of Sweeden. From the moment he ascended the throne as

Gustavus II in 1611 his career had been victorious;he had repelled the Danish armies and driven back the Russians from the Coast of the Baltic. He had,however,another serious cause of apprehension. Sigismund III of Poland was the son of Gustavus' father's elder brother who had been driven from the Swedish throne and was also the brother-in-law of Frederic II to whom he looked for assistance. The interests of Gustavus Adolphus lay in the direction of curtailing the Austrian power and his devotion to the cause of Protestantism imparted zeal to his conduct.

England took no direct part in the struggle but was induced to supply some money to Denmark. It is beyond out purpose to follow the war with the alternate success and defeat of the different participants. It is sufficient to say that the war was continued till all the great leaders had passed away. Gustavus Adolphus fell at the battle of Lutzen after winning remarkable military success,though he failed in his design of uniting all the Protestant princes of Germany under his lead. Wallenstein the leader of the army of the Empire was assassinated by conspiracy. In 1637 Emperor Ferdinand II died and was succeeded by his son Ferdinand III. In 1642 Richelieu died and was soon followed by Louis XIII,but they had both lived to witness the success of the French armies and the triumph of their policy.

October 24th, 1648, there was signed two treaties which constitute what is known as the Peace of Westphalia. The preliminary negotiations were beset with difficulties. The Pope whose interests had been directly at stake in the war resisted to assume his old position as mediator,but this was not regard-

ed with favor by some of the powers and was resolutely opposed by others. Then there were questions of etiquette to be determined before they could meet for negotiations. These questions of etiquette are now so well settled that they do not give us trouble; but they are no longer involved in the supremacy of the power. Formerly precedence in etiquette meant international supremacy. In this country there was much trouble over etiquette Jefferson favored the "pell-mell" system and it almost made a riot at the first dinner. Only in the time of Calhoon was the matter settled by date of commission, rank etc. Before it was settled French and English ministers drew their swords at the White House over the matter of precedence.

Negotiations at Westphalia were delayed several years by questions of etiquette. See "Abrege de Histoire des Traites de Paix" etc. par Koch, and reviewed by Schoell, Vol. I. It is stated in this work by Koch that the first overtures of peace were made by order of the Pope in 1636. The preliminaries of the congress were not arranged till Dec. 1641; they were fully settled at Hamburg in that year between the minister of the Emperor and representatives of France and Sweeden. Munster and Osnabruck in Westphalia were chosen as the scenes of conference These towns were near each other and communication between them waseasy. There were two reasons for taking two towns: One was the necessity of adjusting the question of Papal mediation - Protestants and Catholics separated. The second reason was the difficulty of finding entertainment in one city. It would embrace from one to two hundred thousand people, and this was a great tax upon the country in which it was held.

Barnard, Treaty of Westphalia. Koch gives the most satis-

account of the sources of information in regard to the congress The Peace of Westphalia really regulated the affairs of Europe down to the Revolution.

Now it was agreed that the headquarters of the Catholics should be at Munster and the Protestant powers at Osnabrück; the Emperor was to be represented at both places, but the Spanish and Dutch should treat without mediator (?) at Munster.

At the Congress of Westphalia, the only Christian powers not represented were England, Poland and Russia; and the first of these was then engaged in a great internal struggle between the people and the crown which for the time detracted her from the concerns of the Continent. With the exception of these three powers the Christian states of Europe great and small princes spiritual and temporal, the electors of the German cities and Italian dukedoms were represented by their diplomatic agents charged with the care of their respective interests.

The principal representative of the Emperor was Count Maximilian of Trautmannsdorf who by reason of his superior ability and skill became the centre of negotiations. The Emperor had four other accredited plenipotentiaries. France had three. Sweeden was represented by John Oxenstierna, son of the celebrated chancellor, Sweeden had another representative also, Baron Salvius. The Swiss Cantons also had representatives, and the Dutch Republic was represented. According to the usage of the conference the title of "excellency" was given to ministers of the first rank, but discussion of disputes took place as to who was entitled to claim that right. The title of "Excellency" is now given to ambassadors.

The powers of the ministers of France authorized them to treat for peace but not to sign it; [illegible] to included the

allies of France in such manner that nothing could be done without their concurrance. Soon after the opening of the conference an incident occurred which came near breaking it up: The plenipotentaries of France acting in concert with those of Sweeden, seeing that many of the princes of states of the empire were deterred by fear of increasing the Emperor's displeasure from sending representatives, issued circular letters to all the princes of the different states of the empire, to send their ministers to the conference in order to confer with the powers of securing their civil liberty etc., against the House of Austria, aspiring to absolute monarchy. It was in their quarrel growing out of this that the ministers respectively presented their full powers, and many of them were found to be defective and new ones had to be obtained.

This matter of full powers is a very important one in diplomatic negotiations. The question has lately been raised as to the powers of those claiming to act for China. When Li Hung Chang was sent to Japan his powers were held by the Japanise to be defective and had to be renewed before the negotiations could be begun. He had been authorized to treat ad referendum, that is, to be submitted to the head of the state for approval. This was not deemed sufficient. There is one respect in which the development of constitutional government has brought a modification of this. Where the constitution of a state requires the treaty to be approved by somebody in the government besides the executive, it is implied that full powers does not do away with that requirement but that the treaty must be submitted to that body. Governments are bound to take notice of these provisions in each other's constitutional law. Any powers given

to the plenipotentaries of the United States is subject to the advice and consent of the Senate of the United States.But where an absolute monarchy like Russia gives full power to his representatives there is nothing more to be done;he is bound by his full power.The Emperor of China could give and unqualified full power,and Japan so held.

Now it was evident that the proceedings at Westphalia must of necessity be slow.The interests represented were various and complicated,and there were some members of the conference that were disposed to delay.And while the proceedings were delayed, the the war continued flagrant with results generally unfavorable to the Emperor. In 1647 the aged elector of Bavaria whose territories were invaded by the French concluded with the French a treaty by which he and his brother,the elector of Cologne agreed to remain neutral for the rest of the war;(Truce of Ulm), and his example was followed by other princes so that the position of the Emperor became more and more untenable.The situation of affairs in Spain was also becoming more complicated owing chiefly to insurrections in Naples and Portugal and (p. 52). It was this influence that led Spain to make on the 30th January 1648 a definitive treaty with the Dutch by which the United Provinces of the Netherlands were recognized as free and independent states and the claim of Spanish dominion over them forever renounced. This conference was atMunster and was an important event in European history. It resulted in an agreement to close the struggle of eighty years between the Spanish and the Dutch (cf.Tillinghast,pp.330-1).

This treaty figured in the [illegible] between Great Britain and the Venezuela boundry. British Guiana was once a part of Dutch Guiana;Great Britain [illegible] as the result of the Napole-

onic wars. This treaty provided that each party should retain its conquests in Europe and other parts of the world, and under this stipulation the Dutch kept not only what they had been enabled to wrest from Spain in America and in the East, but also all they had taken from Portugal in America and in the East Indias while Portugal was a dependency of the Spanish crown. The boundries between the Portuguese and Spaniards in South America were never settled, with the result that there have been disputes as to boundries of territory in South America ever since. And the treaty not only provided as to America that they should retain what they already had but that each might make settlements in territory not held by the other. That was a very important stipulation. The treaty contained mutual restriction of commerce in the East Indias. On the other hand the King of Spain acceded to Dutch subjects within the Spanish dominions the same liberty of conscience as was granted to the English and the subjects of each party were permitted to succeed to property in the dominions of the other with or without testament according to local custom. After the conclusion of this treaty the Spanish and Dutch ceased to participate in the conference at its close the Spanish and the French still remained at war.

On the 24th October, 1648, the Treaties of Westphalia were concluded. That at Munster was between France, the Emperor and the Empire; and that at Osnabruck, between Sweeden, the Emperor and the Empire with the inclusion of France as an ally of Sweden. The English text of the treaty was signed at Munster. It is printed in various places. It contains 128 articles. Art. II provides for a general amnesty:

II. That there shall be on the one side and the other a perpetual Oblivion, Amnesty, or Pardon of all that has been committed since the beginning of these troubles, in what place, or what manner soever the Hostilitys have been practis'd, in such a manner, that no body, under any pretext whatsoever, shall practise any Acts of Hostility, entertain any Enmity, or cause any Trouble to each other; neither as to Persons, Effects and Securitys, neither of themselves or by others, neither privately nor openly, neither directly nor indirectly, neither under the colour of Right, nor by the way of Deed, either within or without the extent of the Empire, nothwithstanding all Covenants made before to the contrary: That they shall not act, or permit to be acted, any wrong or injury to any whatsoever; but that all that has pass'd on the one side, and the other, as well before as during the War, in Words, Writings, and outrageous Actions, in Violences, Hostilitys, Damages and Expences, without any respect to Persons or Things, shall be entirely abo abolished in such a manner, that all that might be demanded of, or pretended to, by each other on that behalf, shall be bury'd in eternal Oblivion. (Gen. Col. of Treatys, Vol. I, p.4)

All those who had suffered despoilation during the war were restored as far as possible to their former dominions. The fifth article of the treaty provides that contentions touching Lorain should be submitted to arbitration:

V. That the Controversy touching Lorain shall be refer'd to Arbitrators nominated by both sides, or it shall be terminated by a Treaty between France and Spain, or by some other friendly means; and it shall be free as well for the Emperor, as Electors, Princes and States of the Empire, to aid and advance this Agreement by an amicable Interposition, and other Offices of Pacification, without using the force of Arms.(id.5)

In respect to the religious contentions in Germany, the Peace of Westphalia took for a basis of adjustment New Year's day 1624 as the starting point. There was no logic in taking this date, but it was a compromise. It was provided that all ecclesiastical holdings at that date should so remain. For the future it was provided that Catholics and Protestants should be placed on the same footing; and these benefits were conferred upon the Calvinists as well as the Lutherns. This provision ensured a larger measure of security to Protestants.

In political matters the treaty settled the affairs of Europe and gave satisfaction to the crowns of Sweden and France. The Palatinate was divided; the Upper being united to the Duchy

of Bavaria and the Lower placed under a separate government - a new electorate. It was also provided that the Princes and states of the Empire might make defensive alliances among themselves or with foreigners, provided they were not hostil to the Emperor or to the public peace of the Empire; while the power of declaring war, levying taxes and raising troops and making treaties in matters which concerned the whole Empire, was reserved to the diet of all the states. France was permitted to hold her conquests. By this provision she was confirmed in the possession of various bishoprics and she also obtained the cession of Upper and Lower Alsace which had been held by Austria, and also of ten imperial cities. Sweden obtained Hither Pomerania and the island of Rugen, with a part of Further Pomerania with the expectancy of all of it in case of the extinction of the house of Brandenburg; also the bishoprics of Bremen (but not the city) and Verden, as secular duchies - all to be held as feudal tenures of the Empire with a three-vote membership in the imperial diet. The independence of the Swiss cantons was recognized by this treaty. And the independence of the Netherlands, while not formally acknowledged by stipulation was practically conceded.

As the result of the Peace of Westphalia, the religious question as a subject of division and armed conflict between the various states of the Empire, was put at rest although the treaty did not undertake to secure religious liberty in each separate principality. But the general adjustment which the Peace secured of the right of the Princes to regulate religion in their own territories and of their rights as to ecclesiastical property, tended to allay the bitterness which contentions

on this subject had engendered, and this tended to lead to a wider toleration than had ever before existed.

In reply to a question as to why Strasburg was not obtained by France, the professor said that territorial integrity was not obtained by this treaty. You will find in the treaty of Munster in Arts. LXXII and XCII clauses relating to the cession of Alsace to France, and by Art. XCII it is expressly provided that Strasburg shall retain its rights as a free city; the sovereignty, however, the right to all of Alsace was conveyed to France. Art. XCII is obscure in language, but that is what I think it means:

XCII. That the most Christian King shall be bound to leave not only the Bishops of Strasburg and Basle, with the City of Strasburg, but also the other States or Orders, Abbots of Murbach and Luederen, who are in the one and the other Alsatia, immediately depending upon the Roman Empire; the Abbess of Andlavien, the Monastery of St. Bennet in the Valley of St. George the Palatines of Luselstain, the Counts and Barons of Hanaw, Fleckenstein, Oberstein, and all the nobility of Lower Alsatia; Item, the said ten Imperial Citys, which depend on the Mayory of Haganoe, in the Liberty and Possession they have enjoyed hitherto, to arise as immediately dependent upon the Roman Empire; so that he cannot pretend any Royal Superiority over them but shall rest contented with the Rights which appertain'd to the House of Austria, and which by this present Treaty of Pacification, are yielded to the Crown of France. In such a manner, nevertheless, that by the present Declaration, nothing is intended that shall derogate from the Soverein Dominion already hereabove agreed to. (Gen. Col. of Treaties, Vol. I, p.27)
Cf. Tillinghast, p.316; Gindely, Thirty Years' War, II, p.367 ff.

Now as to the effect of the Peace of Westphalia on the constitution of the Germanic Empire: You will find an excellent summary of that constitution in Wheaton's History of the Law of Nations, pp.72-77. You will also find in Westlake's International Law, chap. iv on the Peace of Westphalia. Westlake sets forth six particulars in which the Peace of Westphalia fills an important place in the history of international law and diplomacy in Europe. Regarding its importance he says:

When the plenipotentiaries at Munster and Osnabruck signed the Peace of Westphalia in 1648 the ground had been well prepared for an international society, such a society had indeed been gradually emerging, and we must now look at the shape in which it was completed and consecrated by their work.

First, no question that had ever before received a diplomatic settlement had been of such far reaching import, or had been settled with the concurrence of so many powers. The questions concerned all Western Christendom either by their political or by their religious bearings, and the representatives of nearly all Western Christendom were assembled to determine them The very meeting of such a congress was not only the first affirmation, but by its scale a striking affirmation, of the existence of a body of states which their various interests, whether agreeing or clashing, did not permit to be strangers to one another. Such a body, the discussions arising between any of which are matters of general interest to all, has ever since existed in our portion of the globe, and its limits have been extended as occasion has arisen. Early in the eighteenth century Russia entered it as a consequence of her increased strength and civilisation, and the necessity arising from her geographical situation led to Turkey being formally admitted to the European system by the treaty of Paris 1856. It is true that, since 1648 as well as before, two or more of the powers comprised in that system have often altered the map of Europe by settling their differences without others intervening. It is one of the consequences of the absence of international organisation that the right of intervention in the general interest is not held to be accompanied by a corresponding duty, and the system is therefore a very imperfect protection of the weak against the strong. But the right of intervention in the general interest has not been denied, and the proceedings at Vienna in 1814 and 1815, the participation of Sardinia in the Crimean war though not directly concerned, and the congress of Berlin in 1878, are examples of its exercise. (pp.55-56)

Mr. Lawrence of Cambridge is the author of "Essays on Some Disputed Questions in Modern International Law." In that work he has a chapter on the "Primacy of Great Powers." Lawrence argues very strongly that the rights of small states should not be recognised and protected so far.

The second point made by Westlake is that the society of states was definitively established in 1648 as a secular one. And that the Protestant states in the Germanic Empire were admitted on an equal footing with the Catholic ones, and the claim of the [illegible] to a supreme temporal authority was already obsolete.

The third point is that the right of the princes and cities of the Holy Roman Empire to contract diplomatic engagements with each other and with states outside the empire was formally acknowledged. But he goes on to point out that owing to the constitution of the Imperial diet it was hampered in determining whether any such actions by the princes and cities were prejudicial and ill provided with the means of enforcing its determinations, so that the qualification the engagements of the princes and cities should not be prejudicial to the empire or the emperor was practically of no effect. As matter of fact the princes and cities were received as members of the European society, and became real states in the international sense. This diplomatic right still survives to the several states or principalities of which the German empire is composed but not in the old form. The imperial constitution itself now restricts the states and in matters concerning the empire gives exclusive authority to the central government.

Fourthly, the fact that the princes and cities of the empire were admitted as members of the international society had its influence on the nature and rules of that society, which became a crowd of individual members, many of them petty, instead of being composed of a few powers all more or less considerable. The situation was the extreme opposite of that which had existed when Rome and Parthia confronted one another, and although the discussion of international law from general points of view might have been sufficiently secured with a much smaller number of states, the tendency to base it on abstract principles was promoted by the inclusion of so many for which there could be little safety if grounds of principle were abandoned. To some extent however this tendency was balanced at first by the circumstance that the members of the Holy Roman Empire brought with them into the international society rules which can hardly otherwise be accounted for. Thus, when private war was a general evil within most mediaeval monarchies, a vassal who did not oppose the march of another vassal across his fief to attack a third was not deemed to offend against the latter; the assailant was merely using the public ways of the monarchy. So when private war, put down elsewhere, became in Germany public war, it was not there deemed the duty of a neutral to prevent the passage of belligerent forces across his territory; and that rule, opposed as it was to principle, found its way into inter-

national law and long maintained itself in it. In no part of t the development of our subject since the Peace of Westphalia has the influence of principle, in combination with the natural interest of weak states, been more visible than in that part which concerns the law of neutrality." (pp. 57-58)

The fifth point which Westlake emphasises is the recognition of the independence of the United Netherlands and Switzerland, the former of which had been conceded by Spain a few months before, putting the seal on successful insurrection. The Dutch Republic was recognized by the Congress of Westphalia, but Spain had previously granted independence to it bybthe treaty of January 30, 1648.

Sixthly, the practice by which each state is permanently represented at the capitals of other states by resident ambassadors or ministers of inferior rank, previously an exception, dates as a general one from the Peace of Westphalia. That practice is an outward and visible sign of the common interest which is presumed to bind together even the remotest members of the European society, and is a useful means for the interchange of views in due time on all questions that may affect that interest. If the discussion of such questions was left to special embassies, their despatch would be delayed till passion and accident had greatly increased the difficulty of an amicable settlement, and the states less directly interested would often lose the opportunity of making their sentiment heard. (pp. 59)

I think that is too broad. It seems to me that the work of Professor Hyo on International Law is nearer correct than this. Westlake continues by way of conclusion to what he has said in these six points:

Such from the international point of view did Western Christendom emerge from the long contest between Protestant and Catholic, between the kings of Spain and the Dutch people, and, although this branch of the contest was not yet finally disposed of, between the house of France and the house of Austria. There was now a society, and the maxim ubi societas ibi jus est vindicated itself. International law was born. There was first a general conviction that, besides the friendly offices demanded by good neighbourhood or moral perfection, there were duties for the slighting of which a nation might take redress into its own hands: secondly, there was a general agreement as to where the rules defining those duties were to be looked for: thirdly, the international society was sufficiently intimate and large to justify an injured member in expecting that its vindication of its rules would meet with some appreciable support, direct or indirect, as the result of the general approval. Of these

three points, the combination of which amounted to law, the important one for the lawyer is the second. He can only deal with rules so far as they are ascertainable. Now general opinion at the era which we are considering sought the matter of international rules in two quarters, both of which were equally recognised in the broad philosophy of Suarez and in the painstaking system of Grotius. One was the natural law dictated by reason, about the contents of which the confident spirit of the men of that age did not apprehend much doubt, and which really was much clearer to them than might otherwise be supposed, because it was generally admitted to include that large part of Roman law which the classical jurists had attributed to a natural source. In case of doubt it was to be proved as Grotius had proved it, by testimonies culled from writers and statesmen of all nations, and therefore establishing that kind of consent which the Roman jurists had relied on for the jus gentium which they identified with it, a consent of mankind and not of nations as such. The other quarter in which international law was looked for was the jus gentium as that term was then commonly used, the rules by which the natural law had been supplemented through the custom of nations as such, provided that the rules of this class were at least not repugnant to natural reason. The authority of reason and of custom so limited appeared to be an unquestionable necessity of human intercourse. (59-60).

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CHAPTER III.

WAR BETWEEN FRANCE AND SPAIN AND THE PEACE OF THE PYRENEES.

Continuance of the War between France and Spain after the Peace of Westphalia - War and Peace between the Dutch and the English - Summary of the Treaty between Cromwell and the United Provinces of the Netherlands, April, 1654 - Treaty at Upfal between Cromwell and the Queen of Sweden, April 11th, 1654 - The Treaty of Peace and Alliance between Cromwell and the king of Portugal, July, 1654 - Treaty of Peace and Alliance between Cromwell and the King of Denmark, September, 1654 - War between Cromwellian England and Spain - Treaties of Peace, Commerce, and Alliance between Cromwell and Louis XIV of France - The Peace of the Pyrenees between France and Spain.

(Tillinghast, pp. 366, 375-377).

After the conclusion of the Peace of Westphalia the war between France and Spain continued in the Low Countries until 1659 when it was brought to a close by the Peace of the Pyrenees. The Spanish forces were commanded by the great Condé who had been expelled from France and taken service under Spain. Mazarin's duty on all articles of food that passed into Paris was one of the causes of this insurrection.

The fortunes of this war were determined by the influence of England. After the execution of Charles I, his son found an asylum in the States General of the Low Countries. Cromwell sought to put an end to this asylum and sent ambassadors to the Netherlands to propose a close union between the two Republics

and the exclusion of any enemy of the commonwealths. The Dutch regarded the proposals of union with favor(Seeley, Vol.II,p. 34 et seq.), but while the negociations were proceeding there was a collision between the Dutch and English fleets at Dover, and a war ensued.

You will find in Carlyle's Letters and Speeches of Oliver Cromwell, under the date of July 9th., 1652 a note on the subject of the English declaration of war against the Dutch. The rest of the Netherlands - the part now Belgium - belonged to Spain. Seeley in his Growth of the British Policy has a chapter on the Dutch War. And Burrows in his History of the Foreign Policy of Great Britain refers to this war between the Dutch and the English. The cause of the war was commercial rivalry chiefly. Regarding the contest between the Dutch and the English, Burrows has this to say:

The three Dutch wars in the times of the Commonwealth and of Charles II. form an episode in the history of English Foreign Policy.They could hardly have been avoided,or at any rate not the first or second. The Dutch hadmade rapid strides in nautical power since their revolt from Spain,and their commercial interests had prospered at the expense of Spain and Portugal to such an extent that they would brook no rivalry. The claim of England to the Sovereignty of the Narrow Seas was the occasion of the quarrel which the Dutch themselves sought, with a full determination to fight it out.This ancient claim had sprung from the circumstances of the Norman Conquest,and had been asserted and defended by the Plantagenets and Tudors, while even in the miserable reign of James I. the ships of England,still governed by Elizabethan traditions,fired on the French ambassador's own ship for not saluting the flag.Of course it was not relinquished by Cromwell,and the Dutch knew that the refusal to salute would be made a cause of war.

Behind this,however,were the rivalries in commerce,proceeding to serious issues at Amboyna,and increasingly exhibited in all parts of the world. The Dutch and English were the only two people who could be called nations of seamen;they were also equal in courage and capacity; they had each passed through a desperate war in which they had gained military training and high military ideals.It was clear to both sides that the sooner the struggle was over the better.But the Dutch did not reckon on the extraordinary reserve of strength England possessed in

the tried generals and colonels, who turned into admirals of the first capacity almost at a moment's notice. Excellent as the Van Tromps and De Ruyters were, they were overmatched by Blake, Monk, Montagu, and their comrades, and the English ships were for once the superior war-vessels. This was partly owing to the fleets raised by Charles I.'s ship-money, and partly to the talents of the family of Pett, who were born shipbuilders, and set the fashion for Europe. Later on, the superiority in ships went over to France and Spain.

Never were fiercer battles fought than in those three Dutch wars. In the end the English retained the "honour of the flag," as it was called, the emblem of their dearly bought Sovereignty of the Seas...(pp.25-27).

The treaty of Peace concluding this war was made between Cromwell, as Protector of England, and the United Provinces of the Netherlands April 5th., 1654 at Westminster. Arts. VI and VII of this treaty settled the question as to the harboring of any of the royal family of England. Art VII stipulates that no aid shall be rendered to the enemies or rebels of either republic; that no ships or goods designed as such aid shall be permitted but will be deemed contraband; and that any person violating the sense of the article shall be guilty of high treason Art. XIII provides that Dutch ships shall salute the English on the sea:

"That the Ships and Vessels of the said United Provinces, as well those of war as others, which meet any of the Men of War of the Republick of England in the British Seas, shall strike the Flag to them in the same manner as was ever observ'd at any time heretofore, under any former Government. (Gen.Col. of Treatys, Vol.III, p.72)

1654. (not p.64)

Jenkinson in his edition of treaties says that this treaty established the English in all their rights and privileges, and left the Dutch to make the best terms they could get from a subsequent act of Parliament. The Dutch were the common carriers for other nations at that time. Jenkinson's three volumes of treaties were published in 1785. Jenkinson was Lord Liverpool's. He expresses his thoughts clearly. (Selections read to the class. Three Volume ed. not in Library)

This Treaty with the Dutch was a remarkable treaty in many respects.

April 1654 a treaty was made with Sweden by Great Britain who was represented by Whitelocke, the author of "A Journal of the Swedish Embassy in the Years 1653-1654." Whitelocke was Lord Keeper of the Seals. His work is a very interesting and valuable one; it is full of diplomacy. In his speech to the Queen of Swedon at his first audience, Whitelocke said:

Madam: By command of my superiors, the Parliament of the Commonwealth of England, I do with all respect salute your Majesty, which had been sooner done if, by extraordinary accidents and engagements in the settling of three nations, with no few foreign diversions, it had not been retarded.

And although the Commonwealth of England are not encouraged to send abroad, when they reflect upon the barbarous usage of their messengers in some places, yet your Majesty perceives that from your Government neither our masters nor their servants have the least suspicion of any such entertainment; but we who are here do gratefully acknowledge our experience of respect and civility to our nation.

My business is to communicate with your Majesty in matters relating to the common good, which is of such weight that it admits no hopes of success without His special blessing who by small means can bring great things to pass; the confidence whereof, with my submission to the judgment and command of my superiors, hath given me this honour of being in your Majesty's presence.

Whom I shall not weary with many words or expressions beyond meaning. I am not sent hither for that cause; and it is as different from my own spirit as contrary to the practice and commands of my superiors, from whom and from their servant, according to the English reality, your Majesty will find all manner of plainness and truth in our transactions.

Our deliverances and preservations, whereof we have been eye-witnesses, have been so near to miracles, and such monuments of infinite rich mercy from Heaven, that we should sin against them if the least guile or unfaithfulness should infect our conversation.

It is not my work to paint out my own country, or to draw black lines upon any, though our adversaries; neither shall I take upon me to mention the excellencies of your Majesty's person and Government, or of your people and countries, lest I should injure any merit; and because I speak to them whom God hath favoured with the enjoyment of those great worlds, the increase and continuance whereof is heartily desired by my superiors, and by me their servant.

I shall not enlarge my discourse with observations concerning both nations, - of their likeness in language, laws, manners, and warlike dispositions, - arguments more natural than artificial for a nearer union; but this I may not omit, the fruits whereof I have tasted, the present happy government under your Majesty, which remembers unto us those blessed days of our

virgin Queen Elizabeth, under whom, above forty years, the people enjoyed all protection and justice from their Prince, and she all obedience and affection from her people.

May this, and more, be the portion of your Majesty and your successors; nor had it been lost in those who followed Queen Elizabeth but through their own ill government.

When attempts were made to ravish from us our highest interest, the orthodox religion and just liberty (the defence whereof, undertaken by King Gustavus Adolphus, your Majesty's royal father of blessed memory, in this German expedition for the Protestants' relief was in him most honourable and successful, and surely for us was most just and necessary, and crowned alike with gracious success by the Almighty), for the extirpation of both which by force, which had long been attempted otherwise, auxiliaries were provided, and afterwards a war raised; but first appearing in Scotland, and there diligently resisted, and the English refusing to be instrumental against Scotland for those ends, the storm was then blown over.

In Ireland it arose so hideous, that two hundred thousand poor creatures, men, women, and children, besides what the war there devoured, were in cold blood barbarously murdered for no other but because they were Protestants.

In England it broke out in all parts, from one corner of the land to another: not a place, nor a family, free from the rage of our decennial, more than civil war.

And yet, after so much blood poured forth, we bless God we live; and after so many devastations, a stranger passing through our country hardly can espy the steps of it. Our good God hath given us in England, Scotland, and Ireland, and all the adjacent isles and territories of the Commonwealth, a full and happy peace.

In all appeals to Him, whereof we have seen many, He was pleased still to determine for the Parliament; and after these, and eight tenders and treaties of peace, wherein we received the denial, it pleased the gracious and all-disposing hand of God, for the good of England, to change the government thereof. Nevertheless the same common interest which first began former alliances and confederacies between the two nations do still continue, and oblige both to endeavour the good of each other.

Whereunto they seem the more engaged because we cannot find that in any age there hath been a declared war between them, but a constant intercourse of friendship and amity, with mutual offices of kindness, out of which great profit and happiness hath redounded unto both.

These things being considered with the affairs of Christendom, and especially with the neighbouring princes and states, through Divine Providence, in such posture and condition as to give greater opportunity and lay stronger obligations upon both these nations to entertain a nearer union and correspondence than heretofore, whereby the commerce and tranquillity of both may be preserved and provided for, with respect also to the common interest and concernment of the true Protestant religion; and your Majesty having, by your late public ministers to England, signified your royal inclinations and willingness by all good means to conserve and increase the mutual good understanding between these States:

Upon these and other weighty considerations, and to show how acceptable the former overtures of your Majesty have been, the Parliament have thought fit, by me, to make tender unto your Majesty of the friendship of the Commonwealth of England, and to let you know that they are not only ready to renew and preserve inviolably that amity and good correspondence which hath hitherto been between the two nations, but are further willing to enter into a more strict alliance and union than hath as yet been, for the good of both, and in such a way as shall be held requisite. I shall be ready more particularly to communicate what I have in charge for this purpose. (Whitelocke's Journal, Vol.I, pp.233-236).

Cf. also his address to Cromwell on his return to England, Vol.II, p.447 et seq. Cromwell was greatly pleased that treaty made with Sweden. The text of the treaty is in this volume of Treaties by Jenkinson.

On the 10 July, 1654 a treaty was concluded between Cromwell and the King of Portugal providing for free commerce and trade, and also for religious freedom. Article XXIII stipulates:

XXIII. That all Goods and Merchandize of the said Republick or King, or of their People or Subjects, found on board the Ships of the Enemys of either, shall be made prize, together with the Ships, and confiscated to the Publick. But all the Goods and Merchandize of the Enemys of either, on board the Ships of either, or their People or Subjects, shall remain untouched. (Gen. Collection of Treatys, III, p.107).

In September 1654 a treaty was concluded between Cromwell and the King of Denmark which established free navigation, trade and commerce, and provided that neither of the contracting parties should harbor or aid rebels or enemies of the other. Article XI of this treaty is in the following language:

XI. 'Tis also agreed and concluded, that the Ships of the inhabitants of the Republick of England, together with their Lading and Merchandize, which sail beyond the Fort of Gluckstadt, or any other places and Towns under the Dominion of the King of Denmark, situate on the Bank of the River Elbe, shall, both going and returning, be free and exempt from all Tribute, Toll, Search, Stoppage, or Molestation. (id., pp.140-141).

This treaty by Article XVI confirmed the treaties and alliances entered into between the 1, June 1646, and the 26, April 1654, concerning Customs in the Sound and other things between the

Don Louis de Haro whose name still survives in the church of de Haro. They met on an island formed by the Bidassoa, a small river which formed the boundry between their respective countries. This island was agreed to as the place for negotiations as belonging one-half to each of the countries, and in the middle they could meet with one-half of each side on the line. The Cardinal came to the conference attended by a large concorse of people, as did de Haro also. Again the question of Prince de Conde came up. The French were slow to restore him, the Cardinal holding that Spain had no right to insist upon it. While admitting that Spain could not compel France to restore him, de Haro took the ground that it would be the duty of the King to indemnify him for losses he may have sustained by ceding to him the sovereignty of the most important places in Flanders. This made a great impression on the Cardinal; the prospects of having one of the best military princes of the age on the French borders induced the Cardinal to agree to the [illegible] article to restore the prince to his rights in Burgundy. Apart from this France conceded little in the treaty.

The Peace of the Pyrenees was signed on the 7th November 1659. It embraced one hundred and twenty-four articles. The first thirty-two articles relate to peace and commerce. There are very minute things in it in reference to individuals and rights of trade. In the 12th and 13th Articles there are notable provisions in regard to the subject of contraband. The 13th article excludes such things as belong to the nourishment and sustenance of life, such as wheat, corn and other grains; pulse, oil, salt etc. That class of things has given rise to more diplomatic difficulties than any thing else. The 26th article

contains an early provision in regard to consuls. The 34th Article contains among other things, provisions in regard to the territorial results of the war; that is, a confirmation of the victories of France and fixing of the boundries between France and Spain - the Pyrenees. Exact France was permitted to retain a large number of towns in the Spanish Netherlands. The Three counties of Flanders, Artois, Hainault and the town of Luxembourg.

Now the great design which Mazirin had sought to accomplish in the negotiations for peace was that of the marriage of Louis XIV with Maria Theresa daughter of Philip IV of Spain. This was proposed by Mazerin in 1656, but at that time Philip had no male children and the Spaniards feared that it might result in putting Louis on the Spanish throne. But in 1657 the Spanish Queen gave birth to a son and the objections of Spanish statesmen were modified. Mazerin feigned to make a marriage with Maria of Savoy and got an interview between the courts of France and Savoy etc. The Spanish court felt that if this marriage occurred it would make difficulty for Spain in Italy, so the King of Spain sent an agent incog to secretly pledge the hand of his daughter. The marriage was formally arranged for in Article XXVIII of the Peace of the Pyrenees; for this purpose special powers were given each ambassador by their respective sovereigns. Flassan gives an account of this in his "Histoire Generale etc" Vol.III, p.223 et seq. The procotol provided for the payment of 500,000 crowns by Spain, and upon the payment of this sum Maria Theresa was to renounce allegiance to the Spanish Possessions. Apart from the fact that the dowery was never actually paid, this provision gave rise to difficulty

since it was doubtful whether such a renunciation was valid. The Spanish wished by this means to avoid French claims by marriage to the Spanish crown. But as Spanish hw was involved by which it was not determined by the interest of any party alone, no one attached much importance to the renunciation. About the only thing that Spain acquired by this treaty was the restoration of Conde; this was established by the 84th and certain subsequent articles of the treaty; and an engagement by France in Article XI to give no further assistance directly or indirectly to the House of Braganza under which the independence of Portugal had been established. Mazerin endeavored to get Spain to recognize the kingdom of Portugal as independent but on this point Spain was inexorable. Flassan gives a good account of the negotiations on the Island "des Faisans".

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CHAPTER IV.

THE PEACE OF BREDA 1667.

Alliance between France and the United Provinces - War between the English and the Dutch in Europe, Africa and America - French Declaration of War against England in aid of the Dutch - Termination of the War by the Peace of Breda, July 21st, 1667 - New York Transferred to the English - Modification of the British Navigation Act - Territorial Changes between France and England - Denmark's Retention of the Orkney Islands.

(Tillinghast, pp.366,364,379.).

Now with the death of Mazarin in 1661, Louis XIV devoted himself to plans of conquest and principally with the design of securing the Spanish succession. In 1662 he concluded a treaty with the United Provinces of the Netherlands by which each party undertook to guarantee to the other their possession and the peace of Europe. In fact the Spaniards had previously endeavored to form an alliance with the States but the poor health of the heir to the Spanish throne led to distrust of a Spanish alliance, and the prospects of trouble with England made them desirous of the support of France.

War broke out in 1664 between England and the Dutch though it was not formally declared till March 4th, 1665, and the Dutch called upon Louis to fulfill his engagements. This he did in a half hearted and evasive way, postponing his declara-

tion of war against England till January 26th,1666. The war between England and the Dutch was carried on by England in Europe,in Africa and in America. Admiral Holmes seized the Dutch ports in Guiana and various other places and a number of ships and then attacked and reduced the Dutch settlement of New York.

The war was brought to a close by the Peace of Breda between England,Holland,FranceyDenmark,which was signed July 21st 1667. There were really three treaties signed by England on the one hand,and by the States General and Denmark on the other. Denmark had gone into the war as an ally. In the treaty with the States General it was stipulated that New York remain with the English; but the British navagation act was modified so as to permit goods and merchandise coming down the Rhine to be imported into England in Dutch bottoms. As it stood before,this could not be done. Vol. I, p.186 of Jenkinson's Collection for this treaty. The Island of St.Christopher was returned to England,and certain territorial exchanges were made in the treaty between France and England. Denmark refused to give up their sound clause (In treaty 1657) and right to Orkney Islands.

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CHAPTER V.

FRENCH WARS OF CONQUEST AGAINST HOLLAND, AND THE PEACE OF NIMWEGEN, AND OF RYSWICK.

French Conquest of the Spanish Netherlands, as the Political Result of the Marriage of Louis XIV to the Spanish Infanta - Effect upon the other Powers of Europe - The Spectre of Absolute Dominion - Peace Between Spain and Portugal - The "Triple Alliance" between England, Holland and Sweden to Check the Rising Power of France - The Peace of Aix-la-Chapelle between France and Spain, May 2nd, 1668 - Alliance of Louis XIV with England and Sweden - War of France and England Against the States General of the Netherlands with Disaster to the Dutch - Intervention of the Emperor of Germany - Treaty League between Holland, Spain and the German Emperor against France - Treaty between Holland, England and Spain and the Alliance of Holland and England - The Peace of Nimwegen between France and the States General - Treaty of Peace between France and Spain September, 1678, and between France and the Emperor, February, 1679 - Opposition to the further Aggressive Acts of Louis XIV - The League of Ausburg - Declaration of War by Louis against the German Emperor - Expedition of William of Orange for the Crown of England - Declaration of War by Louis against Holland, and of England against Louis - "Grand Alliance" against France - The Peace of Ryswick.

(Tillinghast, pp. 366-371, 379-380, 384).

Before the Treaty of Breda was concluded, Louis XIV made a descent upon the Spanish Netherlands. This was the first political result of his marriage with the Spanish princess, and the reason for it was this: Philip IV had died and the Spanish crown had come to his son, Charles II, the child of his second marriage with an Austrian princess. By his first marriage Philip had only one child, the daughter who married Louis XIV. This

only son succeeded him as King of Spain as Charles II. Now Louis XIV set up the claim that by feudal custom appertaining to the territory in question, the Spanish Netherlands, and to a part of Franche Comte, and to a part of Luxembourg, the succession devolved upon the children of the first marriage without regard to sex - by "jus devolutionis". Now the Spaniards denied this claim, maintaining that by the constitution of Spain the monarchy was one and indisoluable; and they also repeated the renunciation of Maria Theresa as her father's successor. Louis XIV, however, issued a manifesto and set on out on what he called journey to take possession of his dominions. Those who like high-toned affairs have a good example in Louis. His success was rapid and complete; he took many places in the Spanish Netherlands, and Franche Comte and united it to Burgundy as Conde.

The growing prosperity of Louis XIV produced the usual effect upon the rest of Europe. The spectre of absolute dominion rose again. It is remarkable what apprehensions that spectre has caused in Europe. Even now we see published articles that are apprehensive of the universal dominion of Russia in Europe. Spain, however, hastened to make peace with Portugal by acknowledging her independence. A formal peace was concluded between Spain and Portugal on the basis of the independence of Portugal. It seems that the treaties of that day were kept with inverse ratio to the protestations of good faith set forth in the preamble.

This conquest of the Spanish Netherlands by Louis XIV removed the barriers between [illegible] Holland [illegible] neighbors. DeWitt, pensioner of Holland, sought the alliance of

England and Sweden, and on January 23rd,1668, Sir William Temple,who was then British minister at Brussels, concluded at the Hague a treaty of alliance between England and Holland (i.e. "States General") which by the subsequent accession of Sweden became known as the famous "Triple Alliance" of that time.

There was a treaty of defensive alliance between England and the States General;they confirm the Peace of Breda. The other and more important treaty which provided for the accession of Sweden, took the form of an agreement to mediate in the first instance and possibly to resort to force in the end. There was a kind of a sub-convention at Brussels for the Spanish Netherlands. The works of Sir William Temple gives an account of this Triple Alliance; the work is in 4 vols. (Ed. 1757), and the text of the treaty is found in Vol.I, p.362 et seq. Swift was one of Temple's Secretaries. Charles Jenkinson, better known as Lord Liverpool, was one of the great publicists of that day.

Louis XIV had already offered to make peace if Spain would allow him to retain all the possessions he had taken in 1667 or if instead of those, she would give him the Duchy of Luxemburg or Franche Comte together with certain minor possessions. Now Spain was to be induced by the Allies to accept one or the other of these alternative. And then there were three secret articles to the treaty: By the 1) it was agreed that the renunciation of Maria Theresa should not be brought into discussion. By the 2) That France was to be required if the war continued to respect neutrality with the "States General"; 3) That if France should refuse to [illegible] already offered,the allies would assist Spain to restore affairs to the

condition in which they were at the conclusion of the Treaty of the Pyrenees.

Now Louis when he heard of this treaty was exceedingly displeased but he concluded to adhere to the terms he had previously offered, and a preliminary treaty was concluded at Saint Germain April 15,1668, by which France and Spain agreed to the first of the two alternatives, viz: that Louis should be left in possession of the places he had conquered in 1667. This alternative was adopted with the entire concurrence of Spain,her object being to make the condition of the States General as insecure as possible so that she might aid Spain against France in the future. The definitive treaty was concluded at Aix-la-Chapelle May 2nd,1668. It did no more than confirm the preliminary treaty of Saint Germain.

Louis now began to prepare for war on the States General. Besides resenting their interference in his conflict with Spain,they had given offense to Louis by affording an asylum to religious and political refuges who annoyed him with their abusive publications. Louis succeeded in concluding a treaty both with Sweden and with England. You will find a reference to this change of policy on the part of England in the works of Sir William Temple (cf. II, pp.161-168). Menaced as the result of this breach of the "Triple Alliance", the States General supplicated Louis for indulgence. Louis replied haughtily and soon after declared war which was preceded a few days by a declaration of war by England. We have an illustration of the principle of "Universal Enmity", a doctrine now discarded in its immediate effects,but still maintained in some of its collateral effects. This declaration of war by England was dated April 6,1672. The reason for the war is given in the

opening paragraph of the declaration. It is amusing:

The ill Opinion which his Majesty hath for some time past entertain'd of the Conduct of the States General, having proceeded so far that his Majesty without the diminution of his Glory cannot any longer dissemble the Indignation wrought in him for their acting so little conformably to the great Obligations, which his Majesty and the Kings his Predecessors have so bountifully heap'd upon them; his Majesty, hath declar'd, as he does now declare, that he hath determin'd and resolv'd to make War against the said States General of the United Provinces, both by sea and Land; and so consequently commands all his Subjects, Vassals and Servants, to fall upon the Hollabders; and forbids them for the future to have any Commerce, Communication or Correspondence with them, upon pain of Death. (Gen.Col.of Treatys, Vol. I, p.167).

Regarding this declaration of war, Sir William Temple, in the second volume of his work, says:

No clap of thunder in a fair frosty day could more astonish the world, than our declaration of war against Holland in 1672, first by matter of fact, in falling upon their Smyrna fleet; and in consequence of that (however it failed) by a formal declaration, in which we gave reasons for our quarrel, while France contented themselves to give no other for their part of it, than only the glory of that king. The Dutch could never be possessed with a belief that we were in earnest till the blow was given; but thought out unkindness and expostulations, of late, would end at last either in demands of money, or the prince of Orange's restitution to the authority of his ancestors. The princes concerned in their safety could not believe, that after having saved Flanders out of the hands of France, we would suffer Holland to fall into the same danger; and my lord Arlington told me at that time, that the court of France did not believe it themselves till the blow was struck in the attack of the Smyrna fleet; but then they immediately set out their declaration, and began their invasion. The Dutch had made no provision for their defence either at home or abroad; and the Empire, Spain, and Sweden stood at a gaze upon the opening of the war, not knowing upon what concerts between us and France it was begun, nor how far we would suffer it to go on upon the French conquests. Besides, the animosities of the parties in Holland, long suppressed under their new constitution and De Witt's ministry, began to flame again upon this misfortune of their State (The Works of Sir William Temple, Vol.II, p.255).

This conflict was most disastrous for the Dutch. There was civil discord at the same time. The Two DeWitts were killed by a mob. And the Prince of Orange was installed as Stadtholder. He declared his intent to [illegible] and emigrate with all his people to East India. The Emperor of Germany alarmed at

the success of Louis and his disregard of the rights of certain free cities in Alsace after the Peace of Westphalia, turned against him, and then Sweden refused to fulfill her obligations under the recent treaty.

Two treaties were signed at the Hague August 30, 1673 by which a league against France was formed between the States General, the King of Spain and the Emperor of Germany. By the first treaty Spain engaged to declare war against France, and the States General promised not to make peace with the latter until after she had restored to Spain all the provinces she had seized since the Peace of the Pyrenees. Spain also engaged to declare war against England unless she would come to terms with the States General. By the second treaty the Emperor agreed to march a force to the Rhine. By a later treaty, October 6, 1673, Spain, the Emperor and the States General undertook to place the Duke of Meravia at the head of an army and to restore him to his dominions. In the winter and the spring of 1673-1674 the French were forced to evacuate Holland and in February 1674 a peace between England and Holland was made.

You will find an account of the negotiations of Great Britain with the States General, and between the States General and Spain, in Sir William Temple's work, Vol. II, p.245 et seq. We have seen before that Sir William Temple threatened to return when King Charles changed his policy and made an alliance with France. He treats this period at great length. He says of the year 1673:

> About this time, after two summers spent in a war between England and Holland, with several encounters at sea, but no decisive action, both parties began to enter upon thoughts, and indeed negotiations, of a peace. The parties had been at war without being angry; and the quarrel had been thought on both sides rather of the ministries than the people. The Dutch believed it

at first intended only against De Witt's faction, in favor of the prince of Orange; and in England some laid to the corruption of ministers by the money of France; and some, that pretended to think deeper, laid it to deeper designs. The lord Clifford's violence, in beginning it, gave it an ill air in general; and the disuse of parliaments, a cruel maim in the chief sinews of war.....

There were too many parties engaged in this quarrel to think of a general peace, though a treaty to that purpose had been set on foot at Cologne, under the mediation of the Swedes, between the ministers of the Emperor, Spain, Holland, and some princes of the Empire on the one part, and his majesty and France on the other, but without any the least appearance of success; for though all the confederates had a mind to the peace between England and Holland, yet none of them desired it with France. This made both the Dutch and the Spaniards set on foot all the engines they could, to engage his majesty in some treaty of a separate peace; to which the necessity of his affairs, the humor of his people, and the instances of his parliament, at last determined him, towards the end of the year 1673. (Works of Sir William Temple, Vol. II, pp.245-247).

So Temple was appointed to make a second treaty of alliance with Holland and he was about to go to the Hague when he received word that the Spanish ambassador had been empowered to treat with England at London, so it was thought best to treat with Holland at the same place:

The terms to be insisted on were soon agreed by his majesty at the foreign committee, which was composed of the lord chancellor Finch, the lord treasurer, the lord Arlington and Mr. Henry Coventry secretaries of state, with whom his majesty ordered my attendance upon his affair. When I was instructed of his majesty's pleasure, I went to the marquis of Frezno, and at three meetings I concluded the whole treaty, with satisfaction to his majesty, and transport to the marquis, upon so great an honour as he thought it to himself, and the fortunes he expected upon it from his master. The articles being public, need no place here. The two points of greatest difficulty were that of the flag, and the recalling all English troops out of the French service. This last was composed by private engagements to suffer those that were there to wear out without any recruit and to permit no new ones to go over; but at the same time to give leave for such levies as the States should think fit to make in his majesty's dominions, both of English and Scots regiments. (ii, pp.248-250).

The point of the flag was one of great importance. This point was called "honor", "self-esteem" etc.; it has played a long part in the history of diplomacy. The dignity, etc. of the nation was deemed to be involved in it. Temple continues:

The other of the flag was carried to all the height his majesty could with; and thereby a claim of the crown, the acknowledgment of its dominion in the narrow seas, allowed by treaty from the most powerful of our neighbours at sea, which had never yet been yielded to by the weakest of them, that I remember, in the whole course of our pretence; and had served hitherto but for an occasion of quarrel, whenever we or they had a mind to it, upon other reasons or conjectures. Nothing, I confess had ever given me a greater pleasure, in the greatest public affairs I had run through, than this success; as having been a point I ever had at heart, and in my endeavours to gain upon my first negotiations in Holland; but found monsieur de Witt ever inflexible, though he agreed with me that it would be a rock upon which our firmest alliances would be in danger to strike and to split, whenever other circumstances fell in to make either of the parties content to alter the measures we had entered into upon the triple alliance. The sum of money given his majesty by the States, though it was not considerable in itself, and less to the king, by the greatest part of it being applied to the prince of Orange's satisfaction for his mother's portion that had never been paid, yet it gave the king the whole honour of the peace, as the sum given by the parliament upon it and the general satisfaction of his people made the ease of it. And thus happily ended out part of a war so fatal to the rest of Christendom in the consequences of it, which no man perhaps now alive will see the end of; and had been begun and carried on as far as it would go, under the ministry of five men who were usually called the Cabal, a word unluckily falling out of the five first letters of their names, that is Clifford, Arlington, Buckingham, Ashley, and Lauderdale. But though the counsels and conduct of these men had begun the war with two unusual strains to the honour of the crown, in the attack of the Smyrna fleet and stopping of the Bank; yet it must be allowed them to have succeeded well in the honours they proposed to themselves; Clifford having gained by it the place of high treasurer, and title of a baron; Ashley the chancellor's place, and an earldom; Arlington an earldom with the garter, and Lauderdale a dukedom with the garter. The duke of Buckingham, being already possessed of all the honours the crown could give of that kind, contented himself to make no better a bargain in this matter than he used to do in all others that concerned him; and so pretended no further than commandes in the army. And thus, instead of making so great a king as they pretended by this Dutch war and French alliance, they had the honour of making only four great subjects. (p.250-251)

Macaulay in his History of England also says much about this (Vol.I, pp.155-181). In 1678 the year after his marriage with the princess Mary, eldest daughter of the Duke of York, the Prince of Orange concluded with the English a treaty of alliance, May 10th, 1678. It provided that [illegible] and Holland should stand by and defend each other with all their

strength in such manner as most effective etc. Also specified statements as to just what was accomplished by the treaty.

On August 10, 1678 a treaty peace was concluded between France and the States General at Nimwegen. This treaty left the territories of the Low Countries substantially as they were before the war. By one of the articles of the treaty it was provided that the peace should include all allies who within six months of its ratification should declare that they accepted it Taking advantage of this provision Spain concluded a peace with France, September 1678. Spain was the great loser by the war. She ceded to France the whole of Franche Comté and numerous fortified cities in the Netherlands while France merely gave up in return certain cities in Flanders. Peace was signed between France and the Emperor, February 6th, 1679. The Duke of Lorraine refused to accept the condition which Louis sought to impose upon him and became an exile from his dominion which remained under the control of France. At the close of 1679 several other treaties were concluded for the purpose of ensuring [illegible].

The Peace of Nimwegen is generally considered as marking the hight of the career of Louis XIV, ending as it does the first period of his policy of conquest. The peace was, however, of brief duration, for immediately after it was concluded Louis began to assert certain disputed claims as to the privileges of free cities under the Peace of Westphalia; and he also conclud[illegible] to hold Luxemburg a fortress in the Spanish Netherlands which it was understood that he was to give back, but which he held on to because he had not sufficient troops to [illegible]. When Spain asked for evacuation of her cities, Louis proposed an ex[illegible] and sought to establish a protectorate over Genoa.

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The opposition of Louis which these things stimulated was intensified by his repressive course toward his Protestant subjects as shown among other things by his revocation of the Edict of Nantes. Thus, while he arrayed against himself by his policy of aggression, Spain and the Catholic states of Europe, he provoked the hostility of all Protestant countries.

In 1686, the Prince of Orange brought about the great League of Augsburg between the Emperor, the kings of Spain and Sweden; or it was primarily between the Emperor and the states of the empire. It was a great religious league for the common defence of any member that might be attacked. William of Orange not being a prince or state of the empire of course was not a party of the League, but he brought it about.

In 1688 Louis XIV declared war against the Emperor and occupied and devastated immediately a large part of the territory of the Palatinate and of the Elector of on the Rhine.

On the 1st November in the same year William of Orange sailed with his expedition to take the crown of England. On the 28 October 1688, the States General adopted a resolution stating why they were aiding William on this expedition.

It has been thought proper and convenient, after a serious Deliberation, to notify to all the Ministers of this State that are in foreign Courts, the Reasons which have indue'd their High Mightinesses to assist his Highness the Prince of Orange with Shipping and Troops, to pursue his Design to go over into England, with Orders and Command, that they should make use of the said Reasons in the Courts where they reside, as they shall see good: And that in consequence thereof, they have wrote to the said Ministers, that 'tis notoriously known to all the World, that the English Nation hath for a long time complain'd that the King being undoubtedly set on by the evil Counsels and Persuasions of his Ministers, hath encroach'd upon their fundamental Laws, and endeavor'd by the Insinuation of them, and the Introduction of the Popish Catholick Religion, to suppress their Liberty, to ruin the Protestant Religion, and bring all things under an arbitrary Government: That if this ill Conduct should [illegible] from [illegible], and the dangers of the said things that [illegible] from it, be augmented, this will occasion such a Distrust of and Aversion to the King, that a general Confusion and Disorder may be apprehended [illegible] the Kingdom. Therefore upon

the frequent Representations, reiterated Prayers, and pressing Addresses made to his Highness, by divers Lords, and other Persons of great Note in that Kingdom; and out of regard to the Interest which her Royal Highness and the Prince have in the Prosperity of the same Kingdom; and that they cannot, upon account of these Differences and Disunions, stand still and run the risque of being excluded from the Crown; the Said Prince Of Orange being oblig'd to the support of the same, he resolved, and with good reason to go and succour the Nation, in consideration and upon the account of that Government which is due unto him, and to give it all possible Assistance; and so much the more, in that his Highness is persuaded, that the Prosperity of this State, wherewith he is intrusted, is greatly interested that the said Kingdom should continue peaceable; and that the Mistrust and Jealousys between the King and the Nation should be removed: That his Highness being sensible, that in order to succeed in so important and laudable a Design, and that he may meet with no Obstruction from ill-minded people, it was necessary he should pass over into that Kingdom, attended with Some Forces, he made known his Intentions to their High Mightinesses, and desir'd Assistance of them; that their High Mightinesses, after having maturely deliberated thereupon, and consider'd that the Kings of France and of Great Britain had a good Understanding of, and Friendship for one another, as their High Mightinesses had been very often assur'd; and that there was a very strict and secret Alliance between them; that also their High Mightinesses were inform'd and advertis'd that their Majestys endeavour'd in concert, to deprive this State of her Allys; and that even the King of France had, upon several Occasions, shewed the little Esteem he had for them; and that therefore it was to be fear'd if the King of Great Britain should once carry his point, and attain to an absolute power over his People, that the two Kings being united in Interest of State, and in hatred to the Protestant Religion, should endeavour to overturn this State, and if possible to destroy it; they have resolv'd to let his Highness pursue his Design, and to grant him some Ships and Troops, in the nature of Auxiliarys, to assist him therein: And in pursuance thereof, his Highness hath declar'd to their High Mightinesses, that he is resolv'd with the Grace and Favour of God, to go over into England, not with the least view or design to invade the Kingdom, to pay it waste, or dethrone the King, much less to render himself Master of it, to do prejudice to the lawful Successor, or to expel and persecute the Roman Catholicks; but Solely and wholly to succour the Nation, to re-establish the Laws and Privileges which have been invaded, and also to preserve their Religion and Liberty; and to this end, to endeavour to bring things so to pass, that a free and lawful Parliament may be call'd, according to Custom, of such Persons as are qualify'd by the Laws and Constitution of the Government; that there they may debate and resolve upon what they shall judge necessary, for the Security of the Nobility, Clergy, Gentry and People; and to the end that their Rights, Laws and Privileges may be no more violated and invaded: That their High Mightinesses hope and are confident, that under the Divine Benediction, Tranquillity and Union shall be restor'd in that Kingdom and so be thereby put into a condition efficaciously to concur in what shall be for the common Good of Christendom, and the re-establishment and Maintenance of the Peace and Tranquillity of Europe. And an Extract shall be made of this Resolution of



their High Mightinesses, to be put by the Agent Rossenboom into the hands of the foreign Ministers residing here, for their Instruction, and that they may make use of them as they please. (Collection of Treatys, Vol.I, pp.253-255).

November 26, 1688, Louis declared war on Holland. And May 7th, 1689, William as King of England declared war on Louis for Ireland at war the side [illegible] aiding James II in his attempt to assert his royal prerogatives in Ireland.

On May 12,1689 an offensive and defensive alliance was concluded between the Emperor and the States General by which they agreed not to lay down their arms until the conditions after the Peace of Westphalia had been restored. December 9th,1689, England acceded to this Alliance. In June 1690 it was joined by Spain and it thus came to be known as the "Grand Alliance" of the great part of Europe against France. The text of this Alliance is in the same volume to which I have just referred, at p.275. It is also in the Jenkinson Collection,Vol.I, pp.1-6. (341.242 - C 79). Treatys Collection (341.2 - C 28) pp.275-280

The War of the "Grand Alliance" against Louis of France continued till September 16, 1697, on the 20th of which moth was made the Peace of Ryswick (Ryswycke). There were three treaties signed at Ryswicke - all by France on the one side, and then on the other by England,Holland and Spain. Macauley has more picturesquely described this than any other diplomacy has been described. Green also discusses this Peace of Ryswicke in his History of England(Harper's edition), Vol.IV, p.65:) § 1343

In May negotiations were opened at Ryswick; the obstacles thrown in the way of an accommodation by Spain and the Empire were set aside in a private negotiation between William and Louis; and peace was finally signed in October 1697. In spite of failure and defeat in the field William's policy had won. The victories of France remained barren in the face of a united Europe; and her exhaustion forced her for the first time since Richelieu's day to consent to a disadvantageous peace. On the side of the Empire France withdrew from every annexation save that of Strassburg which she had made since the

Treaty of Nimegwen, and Strassburg would have been restored but for the unhappy delays of the German negotiators. To Spain Lewis restored Luxemburg and all the conquests he had made during the war in the Netherlands. The Duke of Lorraine was replaced in his dominions. A far more important provision of the peace pledged Lewis to an abandonment of the Stuart cause and a recognition of William as King of England. For Europe in general the peace of Ryswiek was little more than a truce. But for England it was the close of a long and obstinate struggle and the opening of a new era of political history. It was the final and decisive defeat of the conspiracy which had gone on between Lewis and the Stuarts ever since the Treaty of Dover, the conspiracy to turn England into a Roman Catholic country and into a dependency of France. But it was even more than this It was the definite establishment of England as the centre of European resistance against all attempts to overthrow the balance of power.X

Green says that the Peace was signed in October, 1697; the date seems to have been 10th September 1697. The text of the treaty in in the Jonkindon Collection, Vol. I, pp. 299. Vol. I pp. 13-19 (341,248 - G.79). The two governments were to restore to each other all the places they had taken during the war..

X Alex Macaulay Hist Eng [illegible] ed 1858 I: 282-241.

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CHAPTER VI.

WAR OF THE SPANISH SUCCESSION AND THE PEACE OF UTRECHT

(1701 - 1714)

Conditions that led to the War for the Spanish Succession First Treaty of Partition, October 11, 1698 - Second Treaty of Partition, March 3rd, 1700 - The Will and Death of Charles II of Spain - Duke of Anjou proclaimed King Philip V; effect on Europe - The Triumvirate of Coalition - Declaration of War by the Allies - Plan to Depose Philip V of Spain - Battle of Blenheim and its Effect - England Takes Gibralter - Death of Emperor Leopold I and succession of Joseph I - Overtures of Louis XIV for Peace - Death of Emperor Joseph I and Tory success in England make for Peace - Preliminary Treaty - The Peace of Utrecht: Treaty of Navigation and Commerce between England and France - Treaty of Peace between Great Britain and Spain - Treaty between France and Portugal - Treaty between France and the King of Prusia - Treaty between France and the Duke of Savoy - Treaty of Peace between France and the States General; Also of Commerce - Treaty of "Assiento" between Spain and Great Britain - Treaty between Spain and the Duke of Savoy - Treaty of Rastadt between the Emperor and France, and the End of the War.

(Tillinghast, pp.390-394, 435-455).

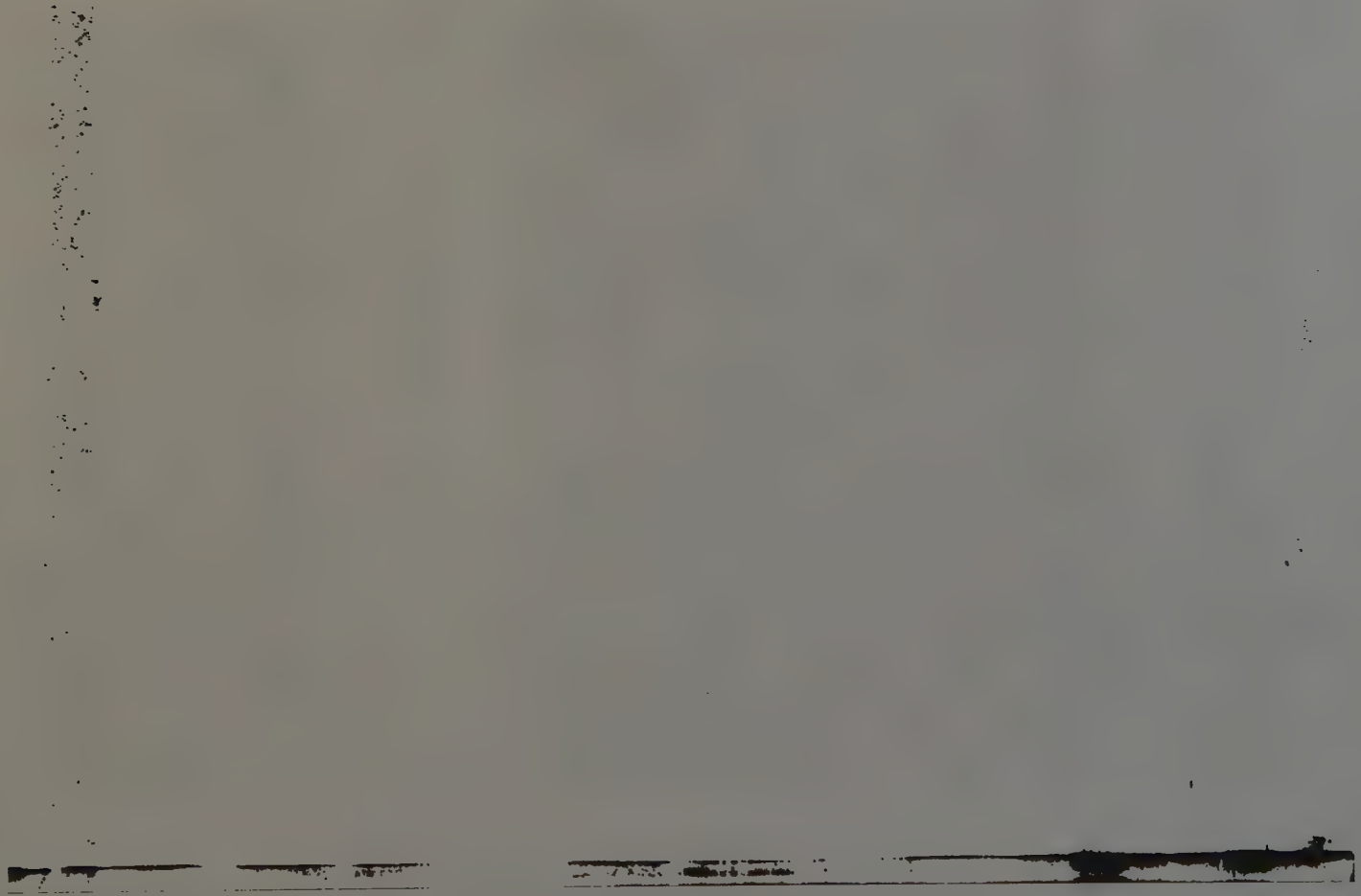
After the Peace of Ryswicke the question came up about the Spanish Succession. The crown of Spain had declined in importance, still it had become a matter of contest between the Emperor Leopold and the Dauphin of France, son of Maria Theresa and Joseph Ferdinand, the electoral prince of Bavaria. Leopold claimed the crown as the son of the younger daughter of Philip III, but as this would unite the Spanish crown and the Imperial crown, he transferred his claim to his second son; and

Louis XIV transferred the claim of the Dauphin to the Duke of Anjou, the Dauphin's second son. Just before the passage I read from Green's History on the Treaty of Ryswick (cf.p.69 supra) is an account of the conditions that existed at the time:

But the war was fast drawing to a close. The Catholic powers in the Grand Alliance were already in revolt against William's supremacy as they had been in revolt against that of Lewis. In 1696 the Pope succeeded in detaching Savoy from the league and Lewis was enabled to transfer his Italian army to the Low Countries. But France was now simply fighting to secure more favourable terms, and William, though he held that "the only way of treating with France is with our swords in our hands," was almost as eager as Lewis for a peace. The defection of Savoy made it impossible to carry out the original aim of the Alliance, that of forcing France back to its position at the Treaty of Westphalia, and a new question was drawing every day nearer, the question of the succession to the Spanish throne The death of the King of Spain, Charles the Second, was now known to be at hand. With him ended the male line of the Austrian princes who for two hundred years had occupied the Spanish throne. How strangely Spain had fallen from its high estate in Europe the wars of Lewis had abundantly shown, but so vast was the extent of its empire, so enormous the resources which still remained to it, that under a vigorous ruler men believed its old power would at once return. Its sovereign was still master of some of the noblest provinces of the Old World and the New, of Spain itself, of the Milanese, of Naples and Sicily, of the Netherlands, of Southern America, of the noble islands of the Spanish Main. To add such a dominion as this to the dominion either of Lewis or of the Emperor would be to undo at a blow the work of European independence which William had wrought; and it was with a view to prevent either of these results that William resolved to free his hands by a conclusion of the war.(pp.64-65).

And on the following page, Green mentions the several claimants and expresses his opinion as to the legal merits of the different claims:

At this moment the claimants of the Spanish succession were three: the French Dauphin, a son of the Spanish King's elder sister; the Electoral Prince of Bavaria, a grandson of his younger sister; and the Emperor, who was a son of Charles's aunt. In strict law - if there had been any law really applicable to the matter - the claim of the last was the strongest of the three; for the claim of the Dauphin was barred by an express renunciation of all right to the succession at his mother's marriage with Lewis XIV, a renunciation which had been ratified at the Treaty of the Pyrenees; and a similar renunciation barred the claim of the Bavarian candidate. The claim of the Emperor was more remote in blood, but it was barred by no renunciation at all. William however was as resolute in the interests of Europe to repulse the claim of the Emperor as to



repulse that of Lewis; and it was the consciousness that the Austrian succession was inevitable if the war continued and Spain remained a member of the Grand Alliance, in arms against France and leagued with the Emperor, which made him suddenly conclude the Peace of Ryswick. (id., pp.66-67).

I think Spain was not so strong as it was supposed to have been. She was not at this time weak in territory. On the whole was as great in 1700 as she was two hundred years before. Her territorial possessions as outlined by Green shows this. But there was not a consolidated national power. Even now there is no solidarity in Spain; there are provincialisms, different feelings and habits of life in different parts of the country. There is a nominal Conservative and Liberal party, but not in fact. A cabinet holds onto a government as long as it can, and then resigns. And a leader gets up a number of factions which in the aggregate must be two-thirds of the members of the House of Deputies. I have talked with some who have gone back to the original sources for the earlier history of Spain.

On August 19, 1698 France, England and Holland concluded at the Hague what is known as the First Treaty of Partition. The text is in the Jenkinson Collection of Treaties, p.305. (Also in General Collection of Treaty(341.2-G38), Vol.I, pp. 386-406; and in Collection of Treaties(341.242-G79), Vol.I,pp. 19-27) By the terms of this treaty, if Charles died without issue, the two Sicilys, the Tuscany seaports, and certain other places were to be given to the Dauphin. The Duchy of Milan to Archduke Charles and the remainder of the Spanish possessions to the electoral prince of Bavaria.

In the following year, however, the electoral prince died, and a new treaty of partition was then made. It is commonly called the Second Treaty of Partition. This was signed at

Lond, March 3rd, 1700. Now this treaty expressly provided that the crown of Spain should not be united with that of the Empire and with this proviso, the principal part of the Spanish possessions, viz: Spain and the Indies, was assigned to the archduke Charles, while the Dauphin was to receive only the province of, or duchy of Lorraine in addition to what he was to receive by the First Partition Treaty. The Duke of Lorraine, if he accepted the treaty, was to have in exchange the Duchy of Milan. As matter of fact he was the only interested party who accepted.

The Spanish minister at London complained of the treaty and was dismissed, and in retaliation the ministers of England and Holland at Madrid were sent home. In October 1700 Charles II madena will giving his crown to his nearest relation, Philip of Anjou, afterwards the legal claimant to it. In November of the same year Charles II died. The Junta then assumed control of affairs and a messenger was sent to Louis with a copy of the will. Louis knew all about it but pretended that it was a great surprise. He called a conseil and postponed his answer three days. Then he called in the Spanish ambassadors and addressed the Duke of Anjou as follows: (I do not know from what History Prof. Moore quoted. Flassan in his Histoire generale etc., Tome IV, p. 207 et seq., gives an account of this matter. On page 208 he says: "C'est alors que Louis XIV, dit ce mot noble et precis : Il n'y a plus de Pyrenées." And on page 209 is quoted the response of Louis to the Spanish embassy:

Le roi répondit a son discours: "Vous voyez à présent les nations francaise et espagnole tellement unies, que les deux desormais n'en font qu'une. Pour moi, je suis maintenant le vieillard espagnol du monde; et si le roi, mon petit-fils, me demande des conseils, je ne lui en donnerai jamais que pour la gloire et l'interet de l'Espagne. On verra mon petitet à la tête des Espagnols, defendre les Francais, et on me verra a la tête Francais, defendre les Espagnols.").

The Spaniards then addressed him as Philip V. In 1701 he was crowned King of Spain. The elector of Bavaria was the first to recognize him as king of Spain; he was followed by William III of England who yielded for that country and the States General [illegible]

The Emperor under the administration of Prince Eugene began to prepare for war as did all the electors except Bavaria and Cologne. He secured the support of Hanover and induced Frederic III of Brandenburg to enter into an alliance by conferring on him the title of King of Prussia (January 18,1701) which was accepted,and which was recognized by all the Powers except France and Spain. War,however,did not come till Louis XIV in violation of the Peace of Ryswicke,recognized the son of James II as King of England. Up to this time William III was unable to induce parliament to unite with him in measures of opposition to France. The treaty of Partition had been unpopular in England,But when Louis violated the Peace of Ryswicke William,taking advantage of the excitement,summoned a new Parliament which made him liberal grants for war,both of men and money; besides procurring the act of abjuration forever excluding the Stuarts from the throne of England. And although William III died before his plans for a general alliance against Louis XIV were consumated his policy was carried out.

William's place in the States General was taken by A. Heinsius who with the Duke of Marlborough and Prince Eugene concluded what was called the "Triumvirate of the Coalition" or the Second Grand Alliance . These three men were at the head of the "Grand Alliance" of the two naval Powers,Great Britain and the States General,with the Emperor against the French who were supported by the dukes of Savoy and Mantua and the elec-

tors of Bavaria and Cologne. The Three allied Powers declared war against France and Spain, though Spain took but a minor part in the war. The English declaration of war was on the 4th May 1702; that of the United Provinces on the 8th May 1702, and the declaration of the Emperor was on the 15th May 1702. These declarations of war are interesting and important as showing the grievances of these three Powers against France. The texts are in the "Collection of Treaties" (341.2 - G 28): The English Declaration is at Vol. I, pp.421-422; that of the States General at pp.422-430; and that of the Emperor, at pp.430-3.

The Declaration of England recites that the aliance between the Emperor and the States General and England as an alliance for promoting the liberty and balance of power in Europe etc., it says that the treaty of the Alliance was made account of the wrongful act of the French King, and his extensive holding of territory to obstruct navigation and commerce. The declaration concludes:

> And we do hereby will and require our Lord High Admiral of England, our General of our Forces, our Lieutenants of our Countys, Governors of our Forts and Garisons, and all other Officers and Soldiers under them by Sea and Land, to do and execute all Acts of Hostility, in the prosecution of this War against France and Spain, or their Subjects: But because they are remaining in our Kingdoms many of the subjects of France ad Spain, we do declare our Royal intention to be, that all the subjects of France and Spain, who shal demean themselves dutifully towards us, shal be safe in their persons and Estates. (Gen. Collection of Treatys, Vol.I, p.423).

The manifeste of the States General is much longer than this declaration of England. The opening paragraph is this:

> Know ye, that the King of France for a long time since, having cast his Eye upon these Provinces, to seize upon the same, if possible, or entirely to destroy and ruin them, has in order to compass his design, twice attack'd this Republic, viz. in the year 1672, and 1688, by a most unjust and violent War, tho we have done our utmost to avoid the same, and preserve the continuation of Peace and Tranquility; that nothing is more evidently known than that, if that King had succeeded in his design, and possess'd himself of these Provinces, he would there-

by have made his way to Universal Monarchy; and if he had but only weaken'd them and forc'd them to sit still, and separate themselves from their Allys, this no less notorious, that he might have attained his aim by subduing other Princes and Powers, whereby this Republick had been in manifest danger of being reduc'd, as wel as other States, and losing her Religions and Liberty's, which are the two precious Advantages for which the Subjects of this State have formerly suffer'd so many cruel Persecutions, and which they could never fully and entirely enjoy, till they had frankly and heartily sacrifie'd their Fortunes and Blood, with every thing else that was dear to them, and maintain'd a War of eighty years standing, against the then powerful Kings of Spain. (id.422-423).

They then go on to state other particular acts which the French King had done to the prejudice of Europe. The declaration of the Emperor sets forth the denial of the rights of cities etc. by France as just cause for war.

In 1705 the allies formed a definite plan for deposing Philip V from the throne of Spain and placing the Emperor's son, the archduke, in his place. The Emperor and his eldest son resigned their claims to the Spanish crown in favor of the archduke who was proclaimed by the allies King of Spain with the title of Charles XIV. In 1704 occured the famous battle of Blenheim in which the allied forces, commanded by Marlborough and prince Eugene compelled the French to cross the Rhine and evacuate Germany. In the same year England took possession of Gibraltar. It was seized by a combined English and Dutch fleet France had gotten control of the Mediterranean. The English in taking Gibraltar played a sharp trick over the Dutch. They raised the English flag on the rock of Gibraltar, and it has been there ever since.

The Emperor died in 1705 and was succeed by Josep I. In 1706 Louis XIV made overtures for peace and offered to accept the terms of the Second Treaty of Partition. But the allies demanded that he should drive his grandson from Spain with his own forces if necessary, and the war continued but with unfav-

orable results to France . In 1710 Louis repeated the offer made in 1706 that Philip V should yield Spain and the Indies to Charles III; and he now added a proposition to aid the allies with money to effect this settlement if Philip should object to it. By that proposition Philip was to retain Civily and Sardinia. The allies cut short the negotiations by demanding that Louis should expel Philip from Spain with his own forces.

In 1711 the aspect of affairs changed: The Emperor Joseph I having died,the office of succession devolved upon his brother Charles, Arch-Duke of Austria,who had been proclaimed by the allies, King of Spain,and he now became a candidate for the imperial office. Should he be elected emperor,then Spain,the Indies and the empire would again be united as under Charles V and Europe would again be disturbed by the spectre of universal monarchy,which is spoken of everywhere as one of the maine causes of coalition against Louis XIV.

Moreover,the Torys regained political power in England and they were disposed to make peace. Indeed the English cabinet proposed to Louis a basis of negotiation which embraced the separation of the French and Spanish crown; the recognition of the Protestant succession in the house of Hanover,and the dismissal of the pretender from France; the session to England of Gibralter,Minorica and St.Christopher; the transfer to her of a monopoly of the slave trade;the most favoredet nation terms in her commerce with Spain; and the session by France to England of Newfoundland and Hudson Bay and Straits. These preliminaries were concluded October 8,1711. The course of England in detaching herself from her allies was rendered [illegible] by the opposition of the new ministry to Marlborough. The preliminary

treaty gave great dissatisfaction at the Hague and at Vienna, but from the moment of its conclusion the war languished and all efforts to secure the English coalition failed.

January 29th,1712 a general conference for a peace was opened at Utrecht. The allies,except England,took the ground that there was to be not only a joint negotiation but a joint treaty. France contended for separate treaties,and as England supported her in this demand,the negotiations also became separate. The French proposals were in substance as outlined in the preliminary treaty with England,but they were rejected by the plenipotentaries of the other powers. The Emperor demanded recognition as heir to the Spanish crown as well as the restitution of Alsace,Franche Comte and various bishoprics. The States General asked for the erection of a barrier between them and France to consist of all the towns in the low countries ceded to France by the treaties of Aix-la-Chapel and Nimwegen, except St.Omer and Cambray. The chief point of difference between England and France was the demand of England that Philip V should formally renounce the throne of France.This concession was finally made and Philip V publically renounced at Madrid the crown of France for that of the country of his adoption. (See Gen.Col.of Treatys Vol.II, pp.555-560.) The treaty of peace between France and England was signed April 11,1713. By Article IV France agreed to recognize the Hanoverian succession in England and the King undertook to cause the son of James II to leave France and not return. (cf.Gerard, pp.316-324). Article VI secured the separation of the crowns of France and Spain and confirmed Philip V's renunciation of the French throne. The formal renunciation is inserted in the treaty. The treaty also provides that the King of France shall not

accept for his subjects anywhere in the Spanish dominion any advantages of commerce or navigation in which British subjects shall not participate. Article IX stipulates that the fortifications of Dunkirk shall be destroyed and never be rebuilt. (Gerard pp.286-288). Articles X, XII and XIII relate to cessions of territory by France to England. These cessions were Hudson Bay and Straits; the Island of St.Christopher, likewise all of Nova Scotia or Acadia, and the City of Port Royal, then called Annapolis Royal; the island of Newfoundland, with the islands adjacent to it. But it was stipulated that French subjects should have the liberty of fishing and of drying fish on certain of the coasts of Newfoundland:

> But it shall be allowed to the subjects of France, to catch fish, and to dry them on land, in that part only, and in no other besides that, of the said island of Newfoundland, which stretches from the place called cape Bonavista, to the northern point of the said island, and from thence running down by the western side, reaches as far as the place called Point Riche. (Jenkinson's Collection of Treaties (341.242-079), Vol. I, p.139.)

The island of Cape Briton and other islands at the mouth of the St.Lawrence in the Gulf were reserved to France. The island of Cape Briton is a part of Nova Scotia now. That is now the province of New Brunswick and part of the State of Me., was part of what the English called Nova Scotia or Acadia. (cf. Gerard, pp.284-287).

James W. Gerard, in his work on The Peace of Utrecht, gives an historical view.

On the same day that the Treaty of Peace just referred to was signed, there was also concluded between France and England a treaty of Navigation and Commerce (Text, "Collection of Treaty" (341.242-079), Vol. I, pp.142-167) by which each country secured to the subjects of the other "most favored nation" treatment. The "most favored nation" clause is usually put in treaties; it is a common provision in

and is especially used in the East. The "most favored nation" clause has been a frequent subject of dispute in treaties. "No other or higher duty shall be charged" etc., and sometimes the wording "any other power whatsoever" is used.

How this treaty provision for most-favored-nation treatment was never carried out. Lord Mahon's in his History of England, Vol. I, p.35 et seq. gives an interesting summary of the debates in Parliament over the "Most favored nation" clauses.

Now among the most remarkable articles were the XVII and XVIII which have often been referred to as forming a new epoch in the history of maritime law, since they annualled the marine ordinances of Louis XIV of 1681 which held as good prize every ship ladened with the goods of the enemy of France. It established as between the two powers the principle of "free ships, free goods"; that is, the goods of an enemy in neutral ships are not liable to be seized in time of war. (cf. Gerard pp.287-9, Chap. xxxiii).

A treaty of Peace was concluded between Great Britain and Spain (cf. Gerard pp.292-3), and also later a treaty of Navigation and Commerce (Jenkinson's "Collection of Treaties" (341.242-G79), Vol. I, pp.168-246). On the 11th April 1713 treaties were also concluded between France and Portugal; between France and the King of Prussia; between France and the Duke of Savoy; and between France and the States General.

By the treaty with Portugal, France abandoned claims to territory in the mouth of the Amazon which she had claimed as part of Guiana. France recognized both banks of the Amazon as belonging to Portugal and reserved the right to navigate the river.

This treaty was involved in the France-Brazilian boundry dispute submitted to the President of Switzerland for arbitration (cf. an article by Prof. Moore in the New York Times, Dec. 16th, 1900). This was a discussion between France and Brazil as to the boundry between French Guiana and Brazil and decided in favor of the latter; the territory in dispute was about as large as France itself; it is bounded on the North by the River Oyapoc, or Vincent Pinson, and the Tumuc-Humac Mountains; on the South by the River Araguary and a line drawn Westerly therefrom; on the East by the Atlantic Ocean, and on the West by the Rip Branco. Article VIII of this Treaty of Utrecht between France and Portugal was involved in the dispute between France and Brazil.

Now by the treaty between France and Prussia the Peace of Westphalia was confirmed in all that relates to the religion and the government of the Empire. By a separate article, the King of France agreed for himself and for the King of Spain who had given him authority for that purpose, to recognize the royal dynasty of Prussia and to accord to Frederic the title of "His Majesty" and give his ministers the same rank as other crowned heads enjoyed.

By the treaty with the Duke of Savoy, April 11, 1713, France recognized him as the legitimate King of Sicily and guaranteed him the possession of that kingdom. The Duke renounced his claim upon Spain but reserved his right of inheritance in default of the posterity of Philip V. These provisions were made in conformity with the demands of Philip V and confirmed by the Spanish Cortes.

By the treaty with Holland, April 11, 1713 (States General) France agreed to transfer to that Power in favor of the House

of Austria, all of the Spanish Netherlands then in the possession of France; Holland agreed to transfer them to the House of Austria to be held by the latter Power as a barrier between Holland and France. In response to a question the Professor explained that the terms "Holland", "United Provinces", "Dutch Republic" and "States General" were practically synonymous. The Belgian Netherlands by this treaty became Austrian Netherlands. The general terms "Low Country" and "Netherlands" then applied to the whole territory or what is now Holland and Belgium. (cf. Gerard, pp. 289-290). In addition to this transfer of the Spanish Netherlands to the Dutch to be turned over by them to Austria, there was also a treaty of commerce between France and the States General on the same basis as that between France and England.

On July 13, 1713 the Treaty of Peace between England and Spain was signed. (Text - Jenkinson's "Collection of Treaties" (341.242 - 079) Vol. I, pp. 168-190). (Cf. Gerard pp. 292-323). By this treaty Philip V agreed to renounce all right to the crown of France and recognize the Hannoverian succession to the crown of England. He also agreed to place navigation and commerce between the two countries on the same footing it was before the war in the time of Charles II, and the King pledged himself not to alienate to France or any other Power any part of the territory of Spanish America. That the Spanish dominions in the West Indies might be preserved intact, the Queen of England pledged assistance to re-establish their boundries as in the time of Charles II (of Spain). Article IX contains the usual "most-favored-nation" clause as to trade and commerce. By Article X Philip formally ceded to Great Britain the town and forts of Gibralter; there were two conditions attached to this transfer:

One, that the free exercise of their religion should be indulged to the Roman-Catholic inhabitants of the town; and the other that if Great Britain ever desired to sell or otherwise dispose of Gibralter the preference of taking it should always be first given to Spain before it was offered to any other Power. Spain also ceded, by Article XI, the island of Minorica with the same provises or conditions as in the cession of Gibralter. This isa very important island from a strategic point of view; it is a good naval station and stronghold. By the XII Article Spain con firmed the separate agreement, commonally called the "Assiento" (conduct), by virtue of which she conceded to Great Britain and her subjects the full enjoyment of the slave trade with Spanish America, to the exclusion of Spanish vessels, for a period of thirty years from May 1713. This provision of the treaty had a most important practical effect later. It was the first step toward free dom of trade with the Spanish provinces; and it was the first and only one ever adopted with Spanish consent. (For the text of the "Assiento" see Jenkinson's "Collection of Treat ies" Vol. I, pp.83-107). England under this established a large trade with the Spanish possessions; they brought to Spanish America few slaves and a large cargo.

August 13, 1713, a treaty between Spain and the Duke of Savoy was signed at Utrecht by which the kingdom of Sicily was ceded to the Duke and his male descendants (cf. Gerard p.311 The treaties thus briefly described together made up what is known as the "Peace of Utrecht". While all concurred in the Peace each Power made its own treaty. This was the virtual end of the Grand Alliance. The Emperor was thus left to carry on his defense against France alone and in the continuance of the war he was unsuccessful and was soon ready for peace. In March

1714 he concluded with France a treaty at Rastadt in his own name; this treaty was subsequently amplified by a treaty in the name of the empire concluded at Baden in Switzerland September 7th 1714 which was essentially the same as the treaty of Rastadt. Of the Spanish inheritance, the Emperor received Naples Milan, Mantura and Sardinia. The Emperor reinstated in their lands and dignities, the electors of Bavaria and Cologne who had been placed under the ban of the empire. Laudau, Strasburg and Alsace were retained by France which gave up all the places on the right bank of the Rhine (cf. Gerard pp. 295-297).

With the conclusion of this treaty the war in Europe was brought to a close. England writes generally reprimand this treaty of Utrecht for the concessions made by England to France in respect to commerce etc., and because of the failure to carry out the terms of the treaty (cf. Gerard p. 305 et seq). The renunciation of Philip V was one of form rather than substance. There was a terrible condition of things in France long before the peace was made. In the correspondence of Madam and Prince of Palatine there is record of this; she makes several references to the conditions of the times: Famine was said to be so great that children had eaten each other.

On the agreement of the "Assiento" treaty, "Burrow in his "History of the Foreign Policy of Great Britain," p. 84, gives this passage:

> The truth is that a state of things had arisen which could not possibly continue without an explosion. A new system of relations was adopted by Spain and accepted by Great Britain at the Peace of Utrecht, a system of definite and absolute restriction of trade, which, after the lapse of three generations of mutual intercourse, virtually amounting to free trade, was unworkable. Let any one consider what that lapse of time meant, the number of families and communities which had grown rich in this trade, and had handed it down from one generation to another; the money sunk in the trade, the many channels by which the British colonies and the mother country had communicated

with one another in this connection. That the absolute restriction of this trade, with the one exception of the Assiento, forming part of the Peace of Utrecht, should have been acceded to by Queen Anne and her Tory ministers is not usually (Though it might well be) charged among their faults. They might be excused on the ground of a sanguine hope that the new plan would be suffered to bear as lax an interpretation as the old. The sequel proved them to be entirely in error. Philip V. was not only a hostile Frenchman, but he became a thoroughly hostile Spaniard as well. His sympathies flowed from both sides in the anti-English direction, and it was no wonder. The former friendliness between Spain and Britain had been extinguished in the late war, with its disastrous result to Spain in the capture of Gibraltar and Minorca.

Here was Philip's opportunity. By the Peace of Utrecht the old permission to trade by license had been annulled. What was the famous Assiento which had taken its place? It was a contract for supplying the Spanish colonies with a certain number of African negroes, a contract made with Spain by the English South Sea Company. To it was attached the privilege of annually sending a single ship of a certain burden, laden with European merchandise, to Spanish America. Was this privilege to be literally interpreted? The Spanish Government would have been wise had they reflected upon the impossibility of undoing the work of their predecessors, and, by a mere edict from the mother country, attempting to force backwards the stream which had so long been running in the direction of freedom and mutual advantage; but under the circumstances it was natural that such reflections should find no place. The effect is described by the excellent historian Coxe in the following words:-

'The letter of the American Treaty was now followed, and the spirit by which it was dictated abandoned. Although the English still enjoyed the liberty of putting into Spanish harbours for the purpose of refitting and provisioning, yet they were far from enjoying the same advantages (as before) of carrying on a friendly and commercial intercourse. They were now watched with a scrupulous jealousy, strictly visited by guardacostas, and every efficient means adopted to prevent any commerce with the colonies except what was allowed by the annual ship."

It was not therefore surprising that British merchants and colonists refused to be bound by the letter of treaty. Considering the trade as already theirs by long prescriptive right, and not a mere matter of indulgence, they adopted, in concert with the Spanish colonists, all sorts of petty methods of evasion. They "continually put into the Spanish harbours, under pretence of refitting and refreshing, and in many places almost publicly disposed of European merchandise in exchange for gold and silver. Other vessels sailing near their ports and harbours were repaired to by smugglers, or sent their boats ashore, who traded with the natives. The Spaniards declared that the 'Assiento annual ship' was followed by several other vessels which moored at a distance, and, as it dispersed of its cargo, continually supplied it with fresh goods; that [illegible] and by the clandestine trade [illegible] almost supplied the colonies; and the Fair of Ponama, one of the richest of the world, where the Spaniards were accustomed to exchange gold and silver for European merchandise, had considerably fallen; they monopolised the commerce of America. (iv. 82-88)

And Seeley in his work on the Growth of British Policy, Vol. II, pp. 341-344 discusses the general meaning of the Peace of Utrecht and its relation to the development of the commercial system and struggles of commerce:

But another Power remains to be considered whose relations to England have occupied us through out this essay. What effect will the great transition of the second Revolution have upon our relations with France? France was still the most prominent Power, the Power which had mainly caused our Revolution and had engaged in war with us on account of it. And yet until 1689 France had rarely since the accession of Elizabeth appeared as a direct antagonist of England and never as the head of the opposite system of Europe. Spain had all along occupied that position, and all along France had been in opposition to Spain and for the most part in friendly relations with England. The chronic antagonism of Spain and France has hitherto been the most unalterable feature of international relations. France has had a to shake herself free from a certain internal dependance on Spain, in one age from the League, in another from the Fronde. She has achieved this successfully, and in achieving it she has well-nigh dissolved the complex fabric of the Spanish Monarchy. She has taken a leading share in depriving her first of the United Provinces, then of Portugal and the Portuguese Colonies. She has also straitened her boundaries on the side of Flanders and she has robbed her of Franche Comte. As against the United Provinces and Portugal England has cooperated with France, so that it may be questioned from which of those two Powers the Spanish Monarchy has suffered most injury. William's work has hitherto consisted in raising the British state to a position in the world similar to that which had been hitherto occupied by Spain. He unites the two maritime Powers which on the sea and in the New World are the successors of Spain. The British Trade Empire which now begins to take shape can only flourish at the expense of Spain. The maritime sceptre is about to pass from Spain and seems likely to pass to Britain. The question of the Spanish Succession is thus twofold; it is the question not only who shall be Spanish King on the death of Charles II, but also who shall succeed to the ancient maritime and colonial monopoly of Spain.

France will put in her claim to the latter succession as well as to the former. For France too has experienced that singular transformation which marks in England, as we have seen, the age of the second Revolution. French politics too have been passing into the commercial phase. It could not be otherwise since the position of France and her relation to the Spanish monopoly was very similar to that of England. If England was insular and oceanic, France too has a long sea-board, facing at once the Northern Seas, the Atlantic and the Mediterranean. She has flourished hitherto upon the spoils of Spain, why should she not acquire the most precious of all Spain's treasures, her colonial monopoly? She is prepared to do so, for of all the new developments of French activity in that age, in which she was so active, [illegible] is the one to which Colbert gives his name. With him she had entered into commercial and

maritime policy, and before the battle of La Hogue she had ranked as the first maritime Power.

These considerations prepare us to understand what a vast revolution in international relations was involved in the war of the Spanish Succession. It did not merely put the Spanish Monarchy into the hands of the House of Bourbon, but it also founded a wholly new relation between France and Spain, a relation which in the eighteenth century was the most important of all international relations. The misfortunes of France during the war did not prevent her from founding a Bourbon dynasty in Spain nor even from founding a permanent alliance which by and by became a pacte de famille, between France and Spain. We saw how in the days of Cromwel Louis XIV regarded the war of France and Spain as something necessary and, so to say, eternal. Now at the opening of the eighteenth century this gave place to a friendship which is almost equally close and necessary between the same Powers. The effect of this upon British policy could not but be all-important. Hitherto we have seen England standing between France and Spain, regarding the latter usually as her enemy and therefore the former usually as a friend. This phase is now at an end. In the eighteenth century France is her standing enemy, but it is France aided by Spain. A new Hundred Years' War of France and England is opening, but England's enemy is not to be strictly France but the House of Bourbon, which now rules France and Spain alike. This new phase begins with the War of the Spanish Succession. England's participation in this is but a part, as we have remarked, of that transformation of her policy which left it mainly commercial. In like manner the new relation of France to Spain is grounded in the commercial and maritime development of France, and thus at the same time that we see Great Britain preparing for a long struggle with the House of Bourbon we are able to foresee what the nature and what the scene of that struggle will be. It will be no longer confined to the Channel, or the Flemish towns; it will be a great Oceanic and New World contest. Englishman and Frenchman will confront each other in the eighteenth century in America and in India.

Such then are the various aspects of the Second Revolution. It was in the first place a rising against arbitrary power, but a rising undertaken in circumstances so peculiar that it necessarily involved (1) an immediate war with France (2) a supplementary revolution of the same kind, which we call the Hanoverian Succession, (3) another great war with Spain and France (4) a union with Scotland and at least the introduction of a new system in Ireland (5) and as the result of all these things a great development of trade and the foundation of a Trade Empire, which brings us into a position of permanent rivalry to France and Spain henceforth united in a family policy. (pp.341-344).

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"A Memorial containing the Usurpations of France during the Reign of King Louis XIV" id. pp. 437-442.

Vol. I, pp. 443-446. "A Deduction of the Right and Title of the Crown of Great Britian, and therein of our most Gracious Sovereign Lady Queen Anne to all the Straits, Bays, Seas, Rivers, Lakes, Creeks, Islands, Shores, Lands, Territorys, and Places [illegible], within Hudson's Straits and Hudson's Bay; and of the Right and Property of the Hudson's Bay Company, deriv'd from the Imperial Crown of Great Britain, by Letters Patent of Incorporation, and a free Grant of all the Premises from King Charles the

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CHAPTER VII.

THE NORTHERN WAR AND THE PEACE OF NYSTADT.

(1700 - 1721)

The Twenty Years War between Sweden and Russia - The Death of Charles XI of Sweden - Alliance against Sweden by Saxony, Poland, Denmark and Russia - Decline of Sweden and the Rise of Russia under Peter the Great - Evelyn's Diary on the personal Character and Habits of Peter the Great - Alliance between Charles XII of Sweden, the States General and William III of England - War upon the Danes and the Peace of Travendal - Defeat of Sweden by Russia - Alliance of Charles XII with The Sultan of Turkey - Death of Charles XII and resulting negotiations for Peace - The Peace of Nystadt, August 30, 1721.

(Tillinghast, pp. 324-327).

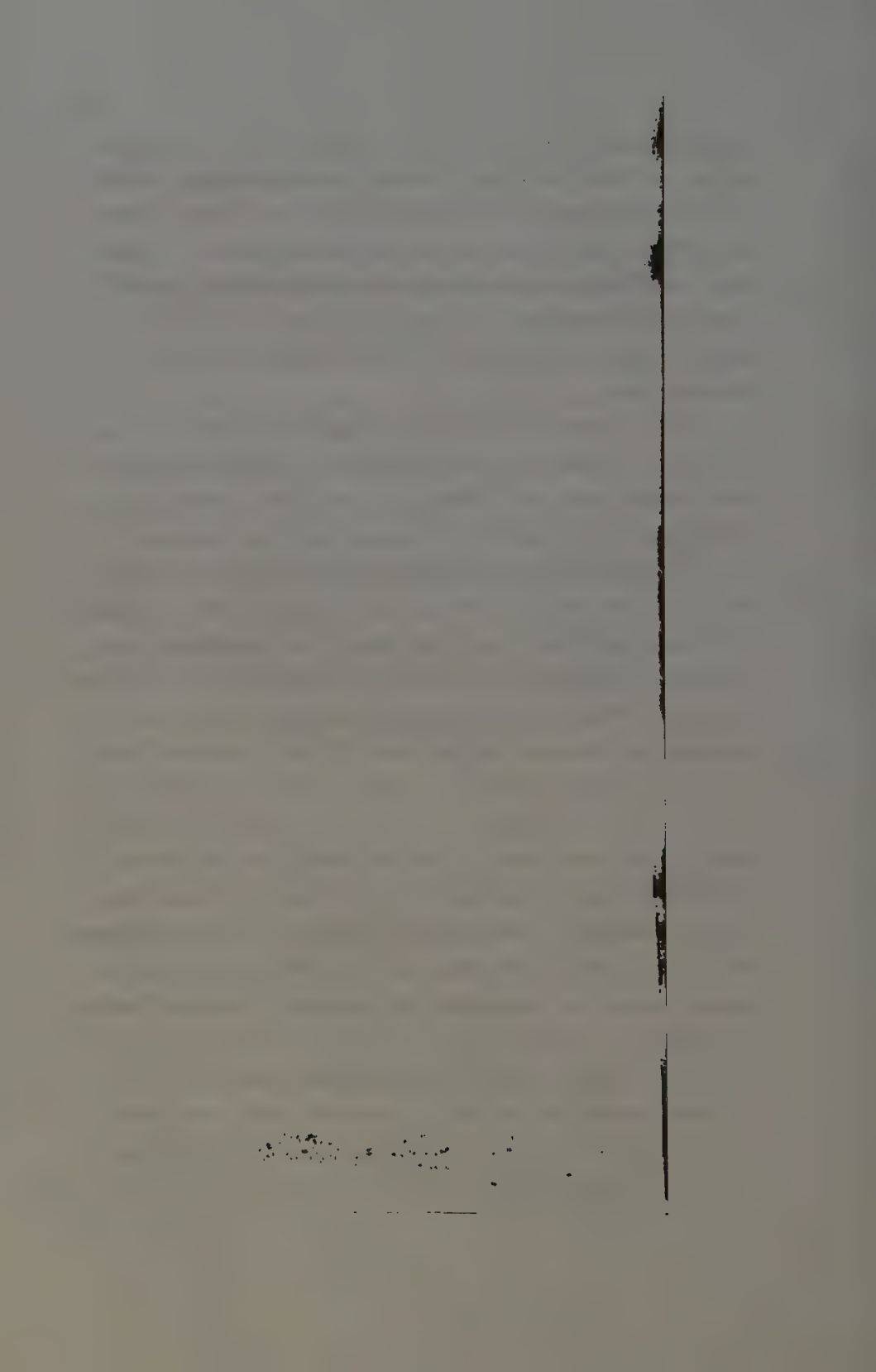
While the struggle that was brought to a close by the Peace of Utrecht was in progress, a war was being waged in the North of Europe between Sweden and Russia for supremacy. It lasted twenty years and resulted in the decline of Sweden and the Ascendency of Russia under Peter the Great. The other Northern powers were participants in the long struggle.

In 1697 Charles XI of Sweden died and was succeeded by his son Charles XII. Sweden then held Finland, Livonia, a large part of Pomerania, Esthonia, Ingermannland, the duchy of Verden, Bremen and other places on the continent. An effort was made to drive Sweden from the continent, headed by Augustus II, elector of Saxony and the King of Poland who formed an alliance with the King of Denmark and the Czar of Russia, then Peter the Great.

Evelyn's Diaries contains much of interest about the personal matters of Peter the Great. Evelyn's house was rented to Peter the Great when he was in England. That is how he knew so much about Peter. He relates how the Czar amused himself by trundling a wheelbarrow every morning through a beautiful boxwood hedge for exercise, and also quotes a letter from one of his servants that throws much light on the personal habits of Peter the Great.

In the campaign against Turkey Azof was captured by the forces of the Czar, and a way opened into the Black Sea, but he also desired ports in the North of the Baltic in order that he might develop the commerce and navagation of his subjects.

In 1698 Charles XII concluded an alliance with the Dutch which was soon joined by William III of England. This alliance between the maritime Powers was intended to keep Sweden in an attitude of opposition to France. This alliance led to various conflicts. (Conflict between Sweden and Russia. The Danes were attacked and compelled to make peace (Peace of Travendal August 1700). Peter declared war against Sweden and imprisoned the Swedish minister at Moscow. In the conflict between Sweden and Russia, the Swedes were at first successful, but the Russians were aided then, as they were a century later, by their climate; the Swedish forces dwindled while the Russians increased and at the battle of Pultova, July 8th, 1709, a great and decisive victory was achieved by the Russians. This battle marks the decline of Swedish power and the rise of Russia. Charles XII finally sought support from Turkey, not being able to get it elsewhere. But the support of the Turks was of short duration [illegible] was soon forced to buy from them the Peace of the Pruth by the terms of which Azoff was given back to the Porte



and the King of Sweden allowed to return to his realm unmolested.

In 1718 Charles XII was killed in battle and the Swedish government sought to bring the war to a close. From 1719 to 1721 various treaties were concluded under which Sweden relinquished to England, Prussia and Denmark many of her possessions in Germany. In 1719 she gave up Bremen and Verden to Hanover; in 1720 Stettin and Western Pomerania as far as the Peene to Prussia; while in 1721 Peter the Great retained his conquests in Ingermannland, Carelia, Esthonia and Livonia. Sweden was thus to a great extent excluded from the continent and Russia became one of the leading Powers of Europe. All that Sweden retained after the conclusion of the Peace of Nystadt, August 30, 1721, was Finland and certain minor territories. I think that Sweden has now lost all that she had in Germany.

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CHAPTER VIII.

THE QUADRUPLE ALLIANCE, CONTESTS OVER SUCCESSION, AND THE PEACE OF VIENNA.

(1715 - 1738)

The Question of Succession to the Throne of France, and the "Quadruple Alliance" - Majority of Louis XV and Regency of the Duke of Orleans - Negotiations of Philip V for a Marriage Alliance between Spain and Austria - Proclamation of the Pragmatic Sanction by Emperor Charles VI - Public and Secret Treaties of Alliance between Spain and Austria - The Perfidy of Ripperda the Spanish Ambassador, his Life and Character - The Question of "Asylum" and Hostilities between Great Britain and Spain - Treaties by Spain with France and England and the break with the Emperor - The Treaty of Vienna between Spain, England, Holland, and the Emperor (1731) - Abolition of the Ostend Company and Imperial commerce with the East Indies - War of the Polish Succession - Preliminary Treaty of Peace between Austria and France (1735) - The Peace of Vienna.

(Tillinghast, pp. 397-398, 436-438, 445-446)

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CHAPTER VIII.

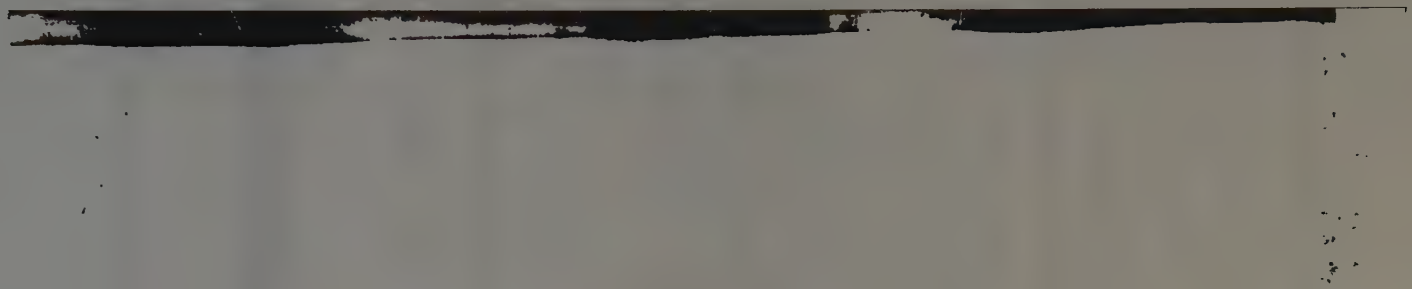
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(1713 - 1738)

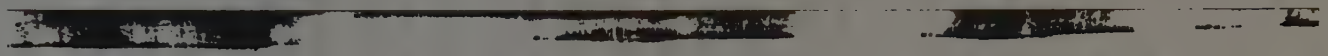
The Question of Succession to the Throne of France, and the "Quadruple Alliance" - Majority of Louis XV and Death of the Duke of Orleans - Negotiations of Philip V for a Marriage Alliance between Spain and Austria - Proclamation of the "Pragmatic Sanction" by Emperor Charles VI - Public and Secret Treaties of Alliance between Spain and Austria - The Perfidy of Ripperdo the Spanish Ambassador, his Life and Character - The Question of "Asylum" and Hostilities between Great Britain and Spain - Treaties by Spain with France and England and the Breach with the Emperor - The Treaty of Vienna between Spain, England, Holland, and the Emperor (1731) - Abolition of the Ostend Company and Imperial commerce with the East Indies - War of the Polish Succession - Preliminary Treaty of Peace between Austria and France (1735) - The Peace of Vienna.

(Tillinghast, pp. 397-398, 426-428, 445-446).

After the Peace of Utrecht we still find the diplomacy of Europe concerned about successions which of course meant the question of the "balance of power". Louis XIV not long before his death appointed by will a council of Regents in which his nephew, Philip Duke of Orleans was the nominal head. But immediately after the death of Louis, the Duke with the approval of [illegible] of Paris seized the Regency, assumed the guardianship of

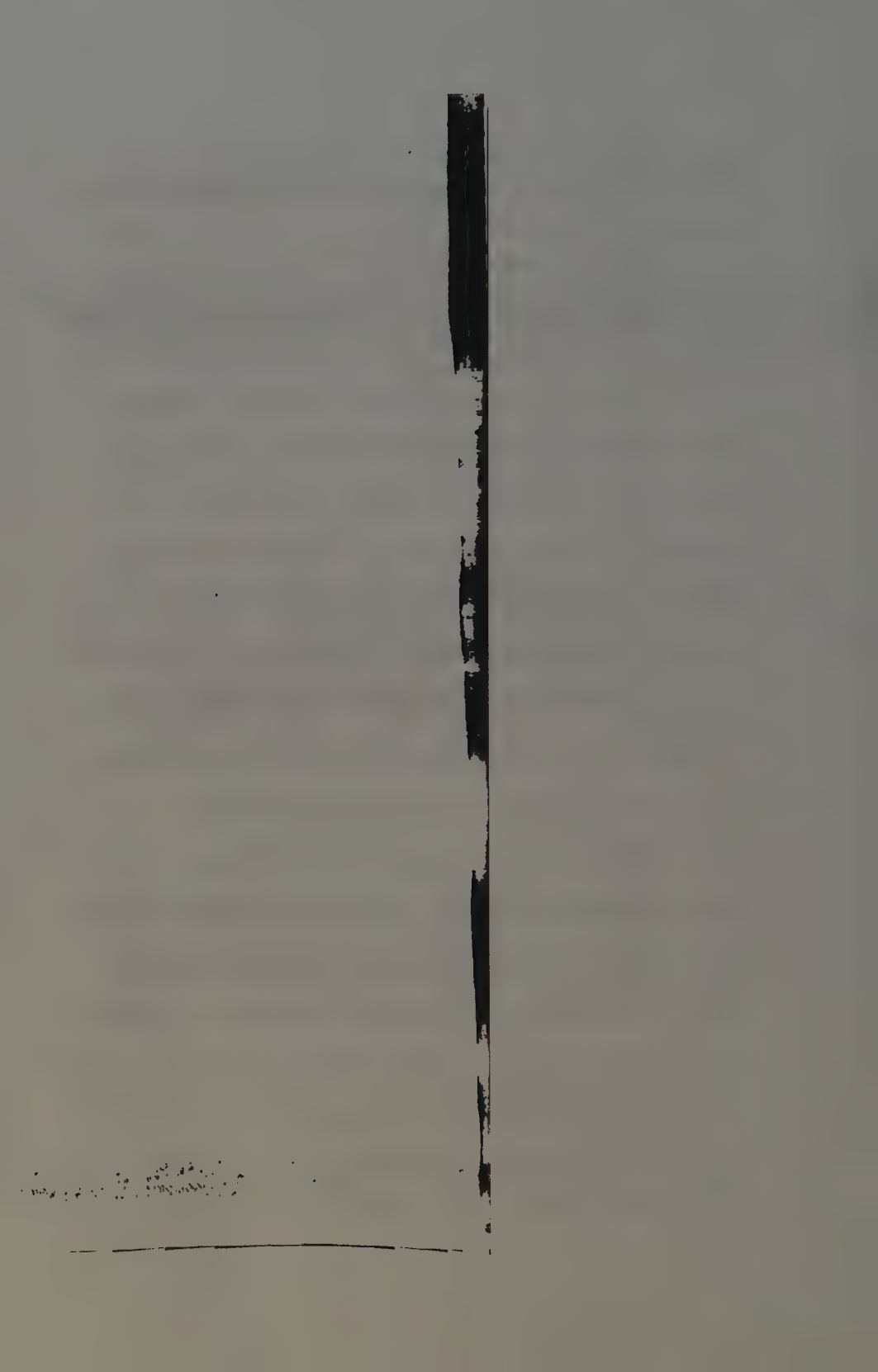
of the young King, Louis XV and exercised practically absolute power. As Louis XV was a sickly child at 15, the Duke sought to secure the succession in the line of the Orleans instead of that of Philip V of Spain, his children by his second wife [redacted] hatched at Madrid to secure the succession of Philip's children by his second wife, and in order to prevent this a triple alliance at the Hague in 1717 was formed between France, England and the States General by which the Peace of Utrecht was confirmed with certain additional stipulations. (Text, "Collection of Treaties" Vol. I, pp.287-296. (341.242 - C 79). This was followed in 1718 by what was called the "Quadruple Alliance" between England, France, the Emperor and the States General by which the Emperor was to renounce all claim to Spain and the Indies, while Philip V was to be compelled to yield all pretensions to the former Spanish possessions then in the possession of the Emperor. ("Collection of Treaties" Vol.I, pp.301-330).

In 1723 Louis XV attained his majority and the Duke of Orleans died. The next year Philip V abdicated the Spanish throne and was succeeded by his son, Don Louis, by his first wife, Louisa of Savoy. But a few years after his succession Don Louis died and Philip resumed the royal functions. Meanwhile he set about finding a wife for Don Carlos his son by his second wife, Elizabeth. The duke Ripperda was sent to Vienna to negotiate a marriage with the archduchess Maria Theresa, eldest daughter of the Emperor, Charles VI; the proposals for an alliance were cordially received at Vienna. The Emperor Charles VI, having no male issue had proclaimed the pragmatic sanction by imperial decree. This was one of the most famous of his Pragmatic Sanctions by which the Austrian succession was conferred



first on his male descendants if he have any; if not, on his daughter and her heirs, all in the order of primogeniture. This decree was objectionable because, while he proposed to recognize the law of primogeniture, it excluded the daughter of Joseph I, his eldest brother, to whom by the act of succession [illegible] father, the Emperor Leopold, the inheritance was given in default of male heirs. Charles VI desired to obtain recognition of the pragmatic sanction and to secure that of Spain an alliance was made and published by which Philip and Charles renewed their claims on each others dominion, while Philip opened Spanish ports to German commerce; and Charles agreed to use his good offices to effect the restoration of Gibraltar and Minorica to Spain besides recognizing Don Carlos as heir to the Parmas etc. But there was also made a secret treaty by which Spain and Austria agreed to endeavor to effect a restoration of the Stuarts, and Charles promised to aid Philip to recover Gibraltar and Minorica.

The existence of this secret treaty was at once suspected from boasting of Ripperdo who had been so successful that he could not contain himself; but finally the matter got noised about, and he fell under the suspicion of the Spanish court whereupon measures were taken to arrest him. Ripperda took refuge in the English embassy from which he was taken by Spain by force. His disclosures gave rise to hostilities between Great Britain and Spain. I suppose that Lord Mahon, the author of the History of England to which I have referred, was the son of the British ambassador at the time - Stanhope is the family name. This case of Ripperda is the familiar case in the books on the subject of asylum; it is given in Martin's cases and other places. In 1740 a life of Ripperda was published. He es-



and other differences, and nullify the secret agreements between Spain and Austria in the year 1725 as related above. You will find those treaties in the Jenkinson Collection - at any rate the English treaty. (Jenkinson Collection of Treaties, vol.

negotiations with Spain. Not long afterwards, however, Spain disregarded her treaty with France and in 1731 concluded, at Vienna treaties with the Emperor, Great Britain and Holland by the terms of which Great Britain and Holland guaranteed the Pragmatic Sanction, and the Emperor agreed to abolish the commerce of the Austrian Netherlands with the Indies; the meaning of that is, that a company had been formed at Ostend, by the heads of Westphalia, the pioneers of the Austrian, and the Netherlands was practically abolished, and this Company of Ostend was to develop the commerce &c. What the Emperor did was to agree to abolish the commercial company at Ostend. On this point the treaty reads as follows:

V. Whereas for attaining to the end which the contracting parties in this treaty propose to themselves, it has been found necessary to pluck up every root of division and dissension, and therefore that the ancient friendship which united the said contracting parties, may not only be renewed, but knit closer and closer every day, his imperial Catholic Majesty promises, and, by virtue of the present article, binds himself, to cause all commerce and navigation to the East-Indies to cease immediately and for ever in the Austrian Netherlands, and in all the other countries which in the time of Charles II, Catholic king of Spain, were under the dominion of Spain; and that he will, bona fide, act in such manner, that neither the Ostend Company, not any other, either in the Austrian Netherlands, or in the countries, which, as is above said, were under the dominion of Spain in the time of the late Catholic King Charles II shal at any time directly or indirectly contravene this rule established for ever. Excepting that the Ostend Company may send, for once only two ships, which shall sail from the said port to the West-Indies, and from thence return to Ostend, where the said Company may, when they think fit, expose the merchandize so brought from the Indies to sale. And his Sacred Royal Majesty of Great-Britain, and the High and Mighty States General of the

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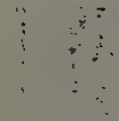
negotiations with Spain. Not long afterwards, however, Spain disregarded her treaty with France and in 1731 concluded, at Vienna treaties with the Emperor, Great Britain and Holland by the terms of which Great Britain and Holland guaranteed the Pragmatic Sanction, and the Emperor agreed to abolish the commerce of the Austrian Netherlands with the Indies; the meaning of that is that a company had been formed at Ostend. By the Peace of Westphalia the commerce of the Austrian and the Netherlands was practically abolished, and this Company of Ostend was to develop the commerce &c. What the Emperor did was to agree to abolish that commercial company at Ostend. On this point the treaty reads as follows:

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United Provinces,do likewise promise on their part,and oblige themselves,to make a new treaty with his Imperial Majesty without delay,concerning commerce and the rule of imposts,commonly call's a Tariff,as far as relates to the Austrian Netherlands, and agreeable to the intention of the 26th article of the treaty commonly call's (by reason of the limits therein settled) the Barrier. And for this purpose the contracting parties shall immediately name commissioners,who shall meet at Antwerp within the space of two months, to be computed from the day of signing the present treaty, to agree together upon every thing that regards the entire execution of the said Barrier treaty,which was concluded at Antwerp the 17/6th day of November,Anno 1715,and of the convention since signed at the Hague the 11/22 day of December,1718; and particularly to conclude a new treaty there,as has been said, concerning commerce and the rate of imposts,as far as relates to the Austrian Netherlands,and according to the intention of the aforesaid 26th article. (Jenkinson,"Collection of Treaties" (341.242 - 079) Vol.II, pp.21-22; the whole treaty,pp.1"-31). (For the text of the Barrier treaty see id.Vol.I, pp.250-276) the XXVI Article, pp.270-1. The text is also in "A general Collection of Treatys of Peace and Commerce etc." (London 1732) (341.2-C 28),Vol. IV, pp.1-35; together with the additions (not in the Jenkinson Collection) of the full powers to the plenipotentiaries by their respective sovereigns (pp.25-27) and the ratifications by the three Powers of the Barrier Treaty (pp.29-36)

By the III Article of this Treaty of Vienna,the Emperor of Austria agreed to a stipulation between Great Britain and the States General that Spanish troops should be garrisoned in the Duchies of Tuscany,Parma and Placentia for the purpose of rendering certain the succession of those duchies to the Infante Don Carlos.

The Peace of Europe was next disturbed by a war growing out of the Polish Succession. Austria and France again appear on opposite sides. Russia and Austria supported the election of Augustus II, elector of Saxony,and son of Augustus II whose death left the vacancy which provoked the war,in consideration of his recognition of the Pragmatic Sanction. While France on the other hand,opposed him [illegible] to recognize his election which was by a minority of the Polish nobles. France urged [illegible] election [illegible] vote of the father-in-law of Louis XV; and was supported in the war by Spain and



This war was concluded by a treaty of peace between Austria and France. The preliminaries were concluded at Vienna in October 1735, but the definitive treaty, known as the Peace of Vienna, was not signed till November 18th, 1738. One of the results of this treaty was that in 1766, Lorraine was abandoned to France; it had been given to France's candidate, at the signing of the treaty, as compensation for his renunciation of the Polish throne; and at his death in 1766 it went to France.

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CHAPTER IX

THE WAR OF THE AUSTRIAN SUCCESSION AND THE PEACE OF AIX-LA-CHAPELLE

(1740 - 1748)

Death of the Emperor Charles VI (1740), and resulting Complications - Invasion of Silesia by Frederic the Great - Charles Albert, Elector of Bavaria, Chosen Emperor (1742) - Grand Duke Francis of Lorraine succeeds to the Imperial office as Francis I, on the Death of Charles VII (1745) - The Peace of Dresden - Spanish Invasion of Northern Italy - The Death of Philip V, and the Close of the War - The Peace of Aix-La Chapelle (1748) - The Importance of Cape Breton Island and French Demand for Hostages.

(Tillinghast, pp. 400-403, 419, 438.)

The year 1740 is marked by the death of the Emperor Charles VI without male issue. This raised two questions: First, as to the succession to the imperial office which had been in the House of Austria, the Hapsburgs, since 1438: Second, as to the succession to the Austrian dominions which had never been ruled by a woman. As to this second question, Maria Theresa succeeded at once to the Austrian dominions in accordance with the Pragmatic Sanction, but she was not destined to rule in peace. Frederic the Great invaded Silesia and formed a coalition with France to prevent the succession of the husband of Maria Theresa, Francis Stephen of the House of Lorraine, to the Imperial dignity. In 1742 the elector of Bavaria was chosen Emperor,

as Charles VII,but upon his death,three years later,the Grand Duke Francis of Lorraine was chosen as Emperor Francis I. And for the sale of a confirmation of his possessions in Silesia, Frederic II agreed, at the Peace of Dresden, to recognise him and so detached himself from France.

Spain conquested Northern Italy,and,assisted by France,attacked Austria. The course of Spain in this particular was due to the influence of Elizabeth of Parma,the second wife of Philip V of Spain,who sought to extend the Spanish Power in Italy. Philip V died in 1746 and the main part of the French and Spanish forces were thereupon withdrawn from Italy. The War was closed in 1748 by the Peace of Aix la Chapelle.

The Peace of Aix-la-Chapelle was concluded by a treaty signed October 18th,1748. ("Collection of Treaties" (1772),Vol. II, pp.88-106). Mahon in his History of England (Boston 1853), Vol.III, p.344 et seq., gives a brief account of this Peace of Aix-la-Chapelle which was also unpopular in England. After reciting the misfortunes of the war,Mahon says:

> In April,accordingly,his Grace wrote to Lord Sandwich declaring that the King,unable either to check the progress of the French army,or to reconcile the discordant pretensions of his own Allies,had resolved,without the concurrence of the other powers,to accept the conditions which France was disposed to grant. Sandwich,was,therefore,instructed to conclude a preliminary treaty,combined with a cessation of arms,especially in the Netherlands; to communicate the treaty to the plenipotentiaries of the Allies,and endeavour to obtain their concurrence; but if they refused it,to sign without them.
>
> In these instructions,the Dutch Government,swayed at this period by the British,and by their own sense of danger,fully concurred. Count Bentinck,accordingly,on their part,as Lord Sandwich on the part of England,pursued the negotiation with Count St.Severin,the plenipotentiary of France; who,in power, feeling his vantage-ground,availed himself of it. He also hastened the result by threatening that the slightest delay in the negotiation would be a signal for the French to destroy the fortifications of Ypres,Namur,and Forte-de-Zoom,and to overrun the province of Holland. The [illegible] the other powers peremptorily refused to join; but late at night of the 30th of April,New Style,the preliminaries were finally adjusted and signed by the English,Dutch,and French plenipotentiaries. The following were the principal articles:-

The renewal of all former treaties, except in such points as were specifically changed.

The mutual restitution of all conquests in every part of the world.

Dunkirk to remain fortified towards the land in its actual condition, and towards the sea on the footing of ancient treaties; in other words, the works on that side to be demolished.

The Duchies of Parma and Guastalla and Placentia to be assigned to the Infant Don Philip; but in case he should either die without issue, or succeed to the throne of Naples, Parma and Guastalla to revert to the House of Austria, and Placentia to the King of Sardinia.

The Duke of Modena, and the Republic of Genoa, to be reinstated in their former territories, comprising the restitution of Finale.

The cessions made to the King of Sardinia, by the treaty of Worms, to be confirmed, with the exception of Placentia and Finale.

The Asiento treaty to be revived for four years, the period of its suspension during the war.

The articles in the treaty of 1716, on the guarantee of the Protestant succession, and the exclusion from France of the Pretender and his family, to be confirmed and executed.

The Emperor to be acknowledged by France in his Imperial dignity, and the guarantee of the Pragmatic Sanction to be renewed.

The Duchy of Silesia and the county of Glatz to be guaranteed to the King of Prussia.

With these preliminaries was also signed an act for the suspension of hostilities.

Never perhaps, did any war, after so many great events, and so large a loss of blood and treasure, end in replacing the nations engaged in it so nearly in the same situation as they held at first. Yet, notwithstanding, the exhausted state of the British finances, and the depression wrought by the disasters in the Netherlands, these terms - especially the restitution of Cape Breton - were far from popular in England. The Ministers, however, might well congratulate themselves on escaping so easily from the results of their own rashness. When the King found peace unavoidable on less advantageous conditions than he had lately shrunk from, he tartly observed, "Chesterfield told me "six months ago, that it would be so:" and the Earl himself could not refrain from boasting how his predictions were fulfilled. "I am heartily glad" he writes, "that the peace is made. "I was for making it sooner, and consequently better. I foresaw "and foretold our weakness this campaign, and would have pre-"vented by a timely negotiation, last October, those evident "dangers to which it must necessarily expose us, and which we "have escaped more by our good fortune than our wisdom. I may "add, that my resignation made this peace, as it opened people's "eyes as to the dangers of the war. The Republic is saved by it "from utter ruin, and England from bankruptcy." (Chesterfield Letters, 13, 1745).

At the same time, however, indignation and resentment prevailed at the Courts of Turin and of Vienna. The King of Sardinia could ill brook the [illegible] of Placentia and Finale; [illegible] Queen, in spite of [illegible] from Sir Thomas Robinson, not only refused to concur in the preliminaries, (Note. "Her Majesty's passionate exclamations at the news- "I am neither a child nor a fool! ... Good God! how have I been [illegible] ... Where is your King of Prussia! ... No no I will not [illegible]

lose my head;" &c.- may be seen from Robinson's despatches in Coxe's House of Austria, Vol. iii, p. 383.) but publicly protested against them. The whole summer was consumed before these obstacles could be surmounted; but the negotiations at Aix were still conducted by Lord Sandwich, and he received directions, partly from Mr. Pelham and the Government in London, and partly from the King and the Duke of Newcastle, who had repaired to Hanover. At length after a tangled web of most wearisome discussions, a definitive treaty was signed in October by all the belligerent powers. This peace confirmed and established the terms of the preliminaries, - but it contained no stipulation on the first cause of the war, the commercial claims of England upon Spain; and it was clogged with a clause most unwelcome to the British pride - the hostages should be given to France for the restitution of Cape Breton. Two noblemen of distinguished rank, the Earl of Sussex and Lord Cathcart, were accordingly selected for this purpose and sent to Paris. (pp. 345-348)

This was a point of great importance at the time. Bourget has a book on this island which has a most interesting history. It was at one time commercially of great importance.

England while restoring Capt Briton to France, received Madras and checked the efforts of France to acquire an empire in India. Prussia emerged from the war a first class Power.

In the third article of this treaty you find what is in all European treaties down to 1802 - they all go back to the treaty of Westphalia; but the Peace of Amiens in 1802 contains no clause affirming any preceding treaties. This third article is as follows:

III. The treaties of Westphalia of 1648; those of Madrid, between the crown of England and Spain, of 1667, and 1670; the treaties of peace of Nimegen of 1678, and 1679; of Ryswick of 1697; of Utrecht of 1713; of Baden of 1714; the treaty of the Triple Alliance of the Hague of 1717; that of the Quadruple Alliance of London of 1718; and the treaty of peace of Vienna of 1738, serve as a basis and foundation to the general peace, and to the present treaty; and, for this purpose, they are renewed and confirmed in the best form, and as if they were herein inserted, word for word; so that they shall be punctually observed for the future in all their tenour, and religiously executed on the one side and the other; such points however, as have been derogated from in the present treaty, excepted. ("Collection of Treaties" Vol. II, p. 73).

Article IX is the one in regard to Cape Breton. A part of this article relates to security for the restitution of Cape Breton and is as follows:

.....; his Britannick Majesty likewise engages on his part to send to his most Christian Majesty, immediately after the exchange of the ratifications of the present treaty, two persons of rank and consideration, who shall remain there as hostages, till there shall be received a certain and authentick account of the restitution of Isle Royal called Cape Breton, and all the conquests which the arms or subjects of his Britannick Majesty may have made before, or after the signing of the preliminaries, in the East and West-Indies. (id. p.79).

This is one of the last examples that I know of in which hostages were given as security for the execution of treaties. It was the old custom.

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Collection of Treaties (1772), Vol. II, pp.68-106.

Flassan, Histoire generale, Tome V, livre iv and v, esp.pp. 386-422 (for negotiations and treaty of Aix-la-Chapelle)

Mahon's History of England (London,1858), Vol.III,pp.344 seq.

Wheaton, Elements of International Law, "Frederick the Great" "Without any declaration, upon pretext of reprisal for [illegible] encroachments, & seizures of goods under French commercial [illegible]", (p 67)

CHAPTER X.

THE SEVEN YEARS WAR AND THE TREATY OF PARIS.

(1755 - 1763)

Conflict between the French and the English for Supremacy in America - Severance of the Coalition between Austria and England - Alliance between England and Prussia - Alliance of Austria with France against Prussia - The General View of this Alliance and the Counter-theory of Duc de Broglie - Seizure of Port Mahon in Minorica by the French (1756) - Declaration of War by France and England - Treaty-stipulation of Frederic the Great to assist Great Britain - Other Treaties between Prussia and England - Succession of Charles III to Ferdinand in Spain - Alliance between Spain and France - Futil Negotiations for Peace between France and England (1761) - The "Family Compact" Between France and Spain - English Declaration of War against Spain - Suspension of Hostilities against Prussia by Russia upon the Succession of Peter III to Elizabeth - Resulting Prussian Triumph over Austria (1762) - Invasion of Portugal by combined French and Spanish Forces - Victory of Portugal assisted by British Forces - Standing Friendship between Portugal and England - Discussion of the French and Spanish Declaration of War Against Portugal - The Preliminary Articles of Peace between England, France and Spain - The Treaty of Paris - The Peace Between Austria, Prussia and Saxony - British Ascendency in North America - The Commercial System and the Colonial Policy of the 18th Century.

(Tillinghast, pp. 403-406, 420-422, 438-439)

Now at the conclusion of this Peace, England was allied in diplomacy with Austria against France: But Austria, aiming to recover Silesia, sought the alliance of France, and in obtaining it looked to Spain. Meanwhile the differences between France and England developed by reason of their interests in America. The

The boundries of Nova Scotia which was ceded to England by the treaty of Utrecht were undetermined and the French, desirous of confining the English settlements in America within the Alleghanies, sought to unite their provinces of Canada and Louisiana by claiming the valleys of the St. Lawrence and the Mississippi. To prevent the execution of this design British troops were sent to seize the territory of the Ohio, assisted by local support from Virginia and Pennsylvania, George Washington appearing at the head of the Virginia contingent. Confronted with war, George II of England sought theaid of Austria to protect Hanover against France; refusalto give such aid severed the coalition between Austria and England.

In 1756 England formed an alliance with Prussia. Then it was that Austria, in order to save her possessions in the Netherlands and for possible recovery of Silesia, sought to make common cause with France against Prussia. Now the usual acodunt of these alliances between France and Austria where there had been so much rivalry, is that it was due to influence. Count Kaunitz was one of the greatest of Austria's diplomatists, and was distinguished alike for his frivolity and his astuteness. At the French court he won the favor of Madam de Pompadour, the mistress of Louis XV; and through her influence and with the consent of Maria Theresa, he succeeded in bringing about an alliance between Austria and France. This alliance was formed under his direction and supervision. It is said that the alliance was arranged by Madam de Pompadour and Cardinal Bernis, her confidant, and the Austrian envoy, Count Stahremberg, without the intervention of any of the French ministry. By this alliance the neutrality of the Empress Queen was stipulated for in

the approaching war between France and England, and the two powers guaranteed each others possessions in Europe against an offensive attack, any war between France and England only excepted. The general view of this alliance is strongly combatted by [illegible] p.99 et seq:

That unexpected change of front, which, by separating France from Prussia in 1756, and uniting her with Austria, overthrew all the traditions of European policy, and was the origin of the Seven Years' War, was an event whose consequences have been almost incalculable, whose first cause it is not impossible to arrive at, but whose details remain involved in mystery. As the greater part of the negotiations that preceded this celebrated diplomatic revolution were concluded with closed doors, and were unrecorded in any archives, history is, to its shame, still reduced to borrowing the narrative of an agreeable litterateur, and the dubious justification of one of the interested parties. Our materials are the gossip reported by Duclos in his Histoire Secrete du Regne de Louis Quinze, and the explanations given by Frederick in his "Memoirs", thirty years after the event. The documents of which the one is as little worthy of entire belief as the other, and which, moreover, contradict each other.

The narrative of Duclos, which had a great success owing to its piquant style and its flavor of scandal, is well known. According to this writer - who, although a philosophe, murdered off the rights of man, was historiographer of the [illegible] - all the faults were on the side of France in the breach that took place between France and Prussia, and proceeded from a source as impure as it was contemptible. At the first rumour of the conflict in the New World between the French and English navies, Frederick, in loyal fulfilment of the treaties which bound him to France, offered his armed cooperation through his ambassador at Paris. He asserted that Austria on her side was ready to aid England, and proposed to anticipate the intervention of the imperial troops, by entering Bohemia himself at the head of 100,000 men. The French Government declined this eager offer, from the motive, or rather under the pretext, that it preferred to preserve the exclusively naval character of the war, and to maintain peace on the Continent as long as possible. It is asserted by Duclos, however, that the refusal of France was dictated by the vanity of Madame de Pompadour, who could not forgive Frederick for the cynical jests which had circulated throughout all Europe, from their starting-point at Potsdam. The clever Austrian diplomatist, Count Kaunitz, having been sent to Paris on a temporary embassy, had observed her anger, and neglected no artifice by which it might be inflamed, while on his own part he plied the favourite with eager homage. On his return to Vienna, whither he went to assume the post of First Minister, which he was destined to occupy for forty years Count Kaunitz took care to inform his mistress of the base chan-

nel through which she might reach the heart of the King of France. Maria Theresa had always smarted under the necessity that obliged her, by the conditions of the peace of Aix-la-Chapelle, to cede one of the fairest provinces of her crown to a former vassal of the empire. She was always dreaming of reprisals and vengeance upon Frederick; her entire policy was concentrated in her passionate desire to recover Silesia. She therefore adopted the idea of depriving the King of Prussia of the powerful aid of France eagerly, and at any cost. So strong was this desire in her heart of the devout Empress, that it triumphed over her pride of station as well as her scruples of conscience, and she did not disdain to write a flattering note, with her own hand, to the little bourgeoise, who held an adulterous place so near the throne. It was in such contemptible fashion that France was offered a treaty of alliance offensive and defensive; and this was the proposal which Madame de Pompadour preferred to the almost simultaneous offer of the King of Prussia, thus forsaking an old and solid friendship for a perfidious and precarious adventure.

The new alliance was discussed (according to our historian) unknown to the whole Court and most of the Ministry, between the Austrian Envoy, Count Stahremberg, and an unimportant Court prelate, the Abbe de Bernis, the author of some galant and worthless poems, at which the King of Prussia had unfortunately laughed. Thenceforth, and therefore, the Abbe emulated the favourite in resentment towards him. The place of meeting was a small country house below Belle Vue, which bore the name of Babiole; and no historian, I think, has omitted to remark upon the contrast between this ridiculous name and the gravity of the interests that were debated there, as well as upon the frivolous sentiments of the negotiators. The discussion, which was broken off and renewed several times, was at length about to result in the formation of a purely defensive alliance, by which the two States reciprocally guaranteed their respective possessions. Only, actuated by a final scruple concerning his former obligations, the King of France exacted that Prussia should be comprised in the guarantee, unless she should be the first to engage in hostilities. Frederick got wind of the affair at this stage, and, justly indignant at the bad faith which so ill repaid his loyalty, and fearing, with reason, that he might find himself standing alone in Europe against a coalition of formidable enemies, took a decided part. He turned round on the side of England, and contracted an engagement with that Power, to take no part in the future war, by a treaty signed at Westminister. This convention of neutrality had nothing aggressive in it toward France or toward any other country; at all events, it was only an anticipated reprisal, and a measure of legitimate defence. (Note: Duclos, "Memoires Secretes du Regne de Louis Quinze: Histoire ed Causes de la Guerre de 1756)

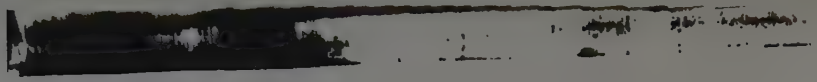
Such is the narrative that French historians have handed on from one to the other, and as the most ardent panegyrists of Frederick could not have invented one more favorable to the memory of their hero, it is not surprising that German historians have also adopted it unanimously. Madame de Pompadour, [illegible] charged before the tribunal of posterity with the responsibility of the decision that was followed by a sanguinary war, which terminated in a peace as disastrous to France.

Heaven forbid that I should plead the cause of Madame de Pompadour, or even that I should invoke extenuating circumstances on her behalf. If she was not on that one occasion so guilty as she was said to be, she was indisputably guilty on so many others and her mere existence, the fact that her worthless and contemptible name has been mentioned in the annals of the French monarchy, is of itself so great a scandal, that no severity with respect to her can ever appear excessive. I do not think, either, as we shall shortly see, that it would be to the interest of the principal personage in this history, or any advantage to his family, that I should defend Madame de Pompadour; nevertheless, truth has its rights, and truth obliges me to acknowledge that Duclos' narrative contains too many anachronisms and is too incoherent to be accepted without reservations which do away completely with its value.

In the first place, the offer of co-operation which Frederick is supposed to have made to France, and which France is reported to have refused, will not bear discussion. This is the very point in Duclos' narrative, and upon it the testimony of Frederick himself is positive and unanswerable. If he made an advance of this nature to France, and if he had the mortification to find it coldly repeled, he would not have failed to proclaim such a grievance in his "Memoirs", which throws the chief responsibility of the rupture upon France. He says, however, nothing of the kind, and he distinctly affirms that his principal motive for withdrawing from the French alliance was that, apropos of a colonial and purely naval quarrel, we wanted to engage the Continent of Europe and himself in a general war, in which he did not choose to figure. (Note: Frederick Grand, "Histoire de la Guerre de Sept Ans," Chapeille; Schaeffer; "Geschichte des Siebenjahrigen Krieg", Berlin, 1768; Appendice, Pieces tires des Archives de Berlin, page 516 et suivants.).

We may, then, grant to Duclos that, from the middle of 1755, Austria was eager, for the reasons he supposes, to offer her alliance to France, considerably mistrusting, however, the romantic colour which he lends to the incidents; but it is also certain that if such proposals were made, that step was taken by Austria, and that she was not anticipated at Versailles by any similar overture from Berlin. Dates have an extreme importance at this juncture, and, it must be observed that Duclos indicates the 21st September, 1755, as the first day on which the Austrian proposal was debated at Babiole. Now it results from a recent examination of documents in the Archives at Berlin, that in the month of August of the same year the English alliance had been offered to Prussia, and taken into consideration by her, so that, during the autumn of that critical year, the faithlessness of Louis Quinze and Frederick was at least reciprocal. The two allies were secretly endeavouring to outwit each other; and, all things considered, the King of Prussia put himself in the wrong by his decisive steps.

In the second place, it results from the narrative of Duclos himself, that no parity exists between the injury of which Frederick believed himself he had to complain on the part of France, and that of which he was guilty towards her. Duclos admits that the treaty of alliance privately signed by Austria, and which France, according to him, was on the point of adhering, contained no more than a confirmation of the territorial status



quo of Europe - that is to say, the result of the treaty of Aix-la-Chapelle, with which Frederick had assuredly no reason to be dissatisfied. He adds that Louis XV insisted upon the Prussian monarchy's being comprised in this guarantee in formal terms, with the whole extent to which its late conquests had stretched it. What wrong was then really done to the interests of Frederick? At the most he might be uneasy about the future of the diplomatic friendship between his former ally and his late enemy; but a fresh acquiescence in the loss of Silesia, her adhesion to it formally given by Austria under the eyes of France, was an advantage to him. The alliance of Prussia with England had quite another character, and much more serious consequences for us, because that alliance was formed in the midst of a war, and, by securing tranquility to the British Government in its Continental possessions, it left that Government free to direct its whole financial and military strength against the French fleet. Louis XV did, indeed, condole with the vanquished and humiliated enemy of Frederick in her misfortune; that, perhaps, was a slight wrong done to friendship; but Frederick courted actual, present, and powerful enemy, almost the conqueror, of Louis Quinze; and this was an act of perfidious abandonment, of scarcely disguised and treacherous hostility.

No form of wrong by which the gravity of the injury could be deepened was omitted. Frederick displayed the utmost bravad and insolence by selecting for his defection the very day on which Louis Quinze offered him the public renewal of their former union, through a trustworthy and noble envoy. This is a fact which Duclos himself cannot mention without embarrassment. In November, 1755, the Duke de Nivernais, Peer of France, Grandee of Spain, close ally of Marshal de Belleisle, Secretary of State for War, and, as such, very high in the good graces of Madame de Pompadour, was sent to Berlin in great pomp, with the ostensible mission of renewing al existing treaties with Prussia, and especially of securing the co-operation of Prussia in [illegible] war which threatened. A personage of such high rank and character was no man of straw; he was not one to expose himself, or to be exposed unknown to himself, to being publicly convicted of duplicity. In any case, if Frederick persisted in doubting the sincerity of Louis Quinze, if the mysterious relations, real or imaginary, of the Cabinet of Versailles with Austria inspired him with invincible distrust, he might have waited until the matter should have been cleared up by a frank explanation. Frederick preferred to act in advance of the arrival of the Ambassador, so that the latter should find the English treaty concluded, signed and sealed. It is even said that he seasoned the communication with a practical joke in the worst possible taste. The Duke de Nivernais was not only a great noble; he was also a literary amateur, and the author of some [illegible] which [illegible] him a seat in the French Academy. At his first audience, Frederick II made him recite some of his verses, and then said, with a laugh, "I will show you presently a piece of my composing." The "piece" was no other than a [illegible], which was quickly thrust almost into the face of the Envoy Extraordinary, a person acknowledged by common consent to be the finest [illegible] of his country and his time.

It is evident, therefore, that Frederick had made up his mind from the first: the Treaty of Westminster, with all its political consequences, was his own doing, and he alone is responsible for it before History. The truth tends also - and I am sorry for it, for the sake of morality - to the exculpation of Madame de Pompadour. (pp.99-108)

[illegible] Whether they evidently [illegible] of the Duc de Broglie, or if they have they do not believe it. The absence of documents in the archives would indicate that the alliance was a personal matter. But it seems difficult to realize that the whole thing could have sprung from the jokes of Frederic which were reported from Potsdam to Paris and there excited the revenge of Madame de Pompadour and her confidant, Abbé de Bernis.

The first important act of hostility between France and England in Europe was the seizure of Fort Malon in the island of Minorica by the French in April 1756. This was immediately followed by a declaration of war on both sides [illegible] and the

In 1758 George II made a treaty with Frederic the Great by which Great Britain stipulated to pay him a subsidy besides furnishing an auxiliary force. This treaty was signed April 11th. 1758. The text is in the Jenkinson edition of treaties. (Collection of Treaties(1772), Vol.II,pp.166-174 - original in French and English translation; id., pp.160-176, for a copy of all the treaties with the King of Prussia by England). This treaty recited:

I. His Majesty the King of Great-Britain engages to cause to be paid, in the city of London, into the hands of such person or persons, as shal be authorize:

I. There shall be, between the said most serene Kings, a perfect peace and mutual amity, notwithstanding the troubles that may arise in Europe, in consequence of the above mentioned [illegible] so that neither of the contracting parties shall attack, or invade, directly or indirectly, the territories of the other; but on the contrary, shal exert their utmost

efforts, to prevent their respective allies from undertaking any thing against the said territories in any manner whatever.

II. If, contrary to al expectation, and in violation of the peace, which the high contracting parties propose to maintain by this treaty in Germany, any foreign power should cause troops to enter into the said Germany, under any pretext whatsoever; the two high contracting parties shall unite their forces to punish this infraction of the peace, and maintain the tranquility of Germany, according to the purport of the present treaty.

III. The high contracting parties renew expresly all the treaties of alliance and guaranty, which actually subsist between them, and particularly the defensive alliance and mutual guaranty concluded at Westminster between their Britannick and Prussian Majesties, the 18th of November, 1742, the convention entered into between their said Majesties at Hanover the 26th of August, 1745, and the act of acceptation of his Prussian Majesty of the guaranty of his Britannick Majesty, of the 13th of October, 1746.

IV. The present treaty shal be ratified by his Majesty the King of Great-Britain, and his Majesty the King of Prussia; and the letters of ratification in due form shal be delivered on both sides, within the space of one month, or sooner, if possible, reckoning from the day of signing the present treaty.
(Collection of Treaties(1772), Vol.II, p.163)

There are several other treaties between Great Britain and the King of Prussia in this book, which were made at this time.

In 1759 Ferdinand of Spain died. Under his rule Spain had been neutral, but his successor, Charles the King of Naples who assumed the Spanish throne as Charles III, was hostile to England. Taking advantage of this antipathy, France induced him enter into an alliance in order that she might retrieve her fortunes in America where the English had conquered the island of Cape Breton, captured Quebec, occupied Fort Niagara and secured several victories along the Lakes and the Ohio River.

In March 1761 negotiations were opened between France and England for a peace but they were delayed for ulterior purposes. Pitt desired delay because of certain military operations he was carrying on; while France desired delay pending her negotiations with Spain.

In July 1761, the Franco-Spanish negotiations having been practically concluded, France put forward certain demands in behalf of Spain, embracing fishing rights for Spanish subjects on the Newfoundland coast, the restitution of certain prizes taken from the Spaniards and the abolition of the British settlements in the Bay of Honduras. These propositions were rejected by the English, and on August 15th. 1761 there was signed at Paris a treaty between France and Spain caled the "Family Compact." This was a remarkable treaty, and it is the one that is usually referred to as the "Family Compact." It is in the Jenkinson Collection of Treaties. (Selections read to the class from the three volume edition of 1785) Simultaneous with the conclusion of the "Family Compact", Spain engaged to declare war against Great Britain on May 1st. 1762 unless peace was sooner declared between France and England. Spain was induced to enter this treaty by the prospect of recovering possessions of which she had been deprived among which was Gibraltar and the island of Minorica.

When the "Family compact" treaty became known, Pitt urged an immediate declaration of war against Spain and resigned when he was overruled, October 5, 1761. Nevertheless war was formally declared in January 1762.

In the same month Tzarine Elizabeth of Russia died and was succeeded by Peter III who was a friend of Frederic the Great. This was an event of great importance to Prussia which was then [illegible] and had lost her best friend in the coalination against it. The first official act of Peter III was to suppress or [illegible] hostilities against Prussia. The effect of this was to greatly improve Frederic's position and enabled him to concen-

trate his forces. Before the close of the year 1762 he had won a great victory over the Austrians at Burkersdorf.

In 1762 Portugal was forced into the war by France and Spain who object was to compel Portugal to join them in a war against England. France and Spain marched a force to the Portuguese frontier and demanded that Portugal assist them. They allowed the king four days in which to reply. He answered them by a declaration of war against them and appealed to England for aid. This was the occassion which gave rise to the warm feeling of friendship between Portugal and England which has continued to the present day in spite of the disputes in East Africa. Portugal was at first worsted in the contest with France and Spain, but wiht England's aid she drove them from Portuguese territory and took some towns in Spain.

The complaint of France and Spain and the reason given for their invasion of Portugal, was that the neutrality of Portugal was not sincere. After a sea fight off the coast of Portugal between the French and the English, French ships were driven ashore and lost. On request Portugal declined to make restitution. And it was also complained that Portugal did not make serious complaint against England for this violation of Portuguese neutrality. As matter of fact Portugal did present a claim to England, and an ambassador was sent to Lisbon to make an apology. But Pitt instructed him not to admit too much but just enough to relieve Great Britain of the charge of having acted peremptorily. His apologies were received and accepted by the Portuguese government. That fact as well as the general [illegible] of Portugal was displeasing to France. In the French declaration of war against Portugal there is this paragraph:

Every one knows the utmost and violent attack made by the English in 1759, on some of the (French) king's ships under the cannon of the Portuguese forts at Lagos. His majesty demanded of the most faithful king to procure him restitution of those ships: but that prince's ministers, in contempt of what was due to the rules of justice, the laws of the sea, the sovereignty and territory of their master (all which were indecently violated by the most scandalous infraction of the rights of sovereign and of nations) in answer to the repeated requisitions of the king's ambassador on this head, made only vague speeches with an air of indifference that bordered on derision. (Annual Register, 1762, (220)).

This is amusing for a public document like a declaration of war. You will find this declaration of war and also that of Spain in the Annual Register for the year 1762. And in Flassan's History of French Diplomacy there is an account of it. With these two authorities you will get the whole story. Flassan says there was a difference of opinion between France and Spain as to how they should approach the King of Portugal. (Histoire Générale, Tom. VI, p.458 et seq.). "Loving kindness with which they had besought him etc." This is good comedy. It is the most amusing thing in the history of diplomacy.

On the 3d November 1762 England, France and Spain signed preliminary articles of peace. During the short time that Spain had been in the war, she had lost Milan, the Philipine Islands and other places, besides a large part of her naval force and much merchandise and treasure. France lost most of her American possessions, ~~Domingo~~, Dominica, Martinique and several other West Indian islands, and also Pondicherry in the East.

On the 10th. February 1763 England, France and Spain and Portugal, signed a definitive treaty of peace at Paris. The preliminary treaty just mentioned which had been signed at Fontainebleau was the basis for the definitive treaty at Paris.

I will just glance over the preliminary treaty(Collection of Treaties,1772, Vol.II,pp.261-271) and then over the definitive, which was along the same line(id.,pp.272-296): The prelude to the preliminary treaty recites the reciprocal desire of the three contracting parties to re-establish peace for the good of mankind in general and their respective kingdoms in particuler, an outline of the negotiations for the present peace, and the names together of the offices, titles etc. of the respective plenipotentiaries and the fact that they had exchanged full powers in good form. Art. I provides for a cessation of hostilities on sea and land. The next article is an important one:

II. His most Christian Majesty renounces al pretentions, which he has hereto formed, or might have formed, to Nova Scotia, or Acadia, in al its parts, and guaranties the whole of it, with all its dependencies, to the King of Great Britain: Moreover, his most Christian Majesty, in full right, Canada, with all its dependencies, as well as the Island of Cape Breton, and all the other Islands, in the gulph, and river of St. Laurence, without restriction, and without any liberty to depart from this cession and guaranty, under any pretence, or to trouble Great Britain in the possessions above-mentioned. His Britannick Majesty, on his side, agrees to grant to the inhabitants of Canada the liberty of the Catholic religion: He wil, in consequence, give the most exact and the most effectual orders, that his new Roman Catholic subjects may profess the worship of their religion, according to the rites of the Roman Church, as far as the laws of Great Britain permit. His Britannick Majesty further agrees, that the French inhabitants, or others who would have been subjects of the most Christian King of Canada, may retire, in all safety and freedom, whenever they please; and may sell their estates, provided it be to his Britannick Majesty's subjects, and transport their effects, as well as their persons, without being restrained in their emigration, under any pretence whatsoever, except debts, or criminal prosecutions: The term, limited for this emigration, being fixed to the space of eighteen months, to be computed from the day of the ratification of the definitive treaty.

Art. III provides that French subjects may have the right liberty of fishing and drying on a part of the coast of Newfoundland as specified in the XIIIth article of the treat of Utrecht, . . in the gulf of St. Lawrence at a distance of three

leagues from the coast. The middle of the Mississippi river was fixed as the boundry between English and French possessions in America, as far south as the river Iberville, and from there by a line drawn along the middle of the River Iberville and of the Lakes Maurepas and Pontchartrain to the sea. The remaining articles of the preliminary treaty relate to the transfer of various islands, and adjust matters in India and on the continent of Europe, and stipulate certain provisions in regard to Honduras.

The definitive treaty confirms these preliminary articles. Now this famous treaty of Paris of 1763, after the introduction begings in Art. II with the affirmation clause that had been customary in treaties since the Peace of Westphalia. Art III provides for the exchange of prisoners and the restitution of property etc. Art. IV of the definitive treaty confirms Art.II of the preliminary treaty thereby ceding to Great Britain Nova Scotia or Acadia, Canada, the Island of Cape Breton and all the other islands in the Gulf and River of St Lawrence and near the coast. This article also contains the provision in regard to the Roman Catholic religion mentioned in article II of the preliminary. This provision is still of considerable importance in Canada. There is a strong feeling now in Canada between the French and the English. It is really a race question rather than a religious, but it is accentuated by the religious difference. The treaty did not include any territory west of the line of the Mississippi River, but only what is now the Province of Ontario and Quebec, or Upper and Lower Canada. The mar[illegible] provisions were not at [illegible]

Art. V confirms the third article of the preliminary treaty. It stipulates that the subjects of France shall have the liberty of fishing and drying, on a part of the coast of the Island of Newfoundland such as is specified in the XIIIth. Art. of the treaty of Utrecht. Great Britain also consented to allow French subjects the liberty of fishing in the Gulf of St. Lawrence on the condition that they shal not fish within three leagues of the shore, but they were forbidden to fish within fifteen leagues of the coast of the Island of Cape Breton. This fifth article has a very important bearing on fishery questions just at present ; that is, as to the language in which the stipulation is expressed. It was claimed by Great Britain in the negotiations with the United States that the word "liberty" did not mean a "right." The word "right" does not occur in this treaty in this specific sense.

By Art. VI Great Britain ceded to France the Islands of St. Pierre and Miquelon in full right. These articles V and VI determine the fishery question between France and Great Britain to-day. These two little Islands, St. Pierre and Miquelon are now used as smuggling stations. The fishermen also go to them to get bats in order to evade the English Law. They were the last remnants of the French possessions in this region and they stil belong to that country.

By Art. VII of the definitive treaty the Mississippi River was fixed as the western boundry of the British possessions:

> It is agreed, that, for the future, the confines between the dominions of his Britannick Majesty, and those of his most Christian Majesty, in that part of the world, shall be fixed irrevocably by a line drawn along the middle of the River Mississippi, from its source, [illegible] River Iberville, and from [illegible], by a line drawn along the middle of this River, and the Lakes Maurepas and Pontchartrain, to the sea; and for this purpose, the most Christian King cedes in full right, and guaran-

ties to his Britannick Majesty, the River and Port of the Mobile, and every thing which he possesses, or ought to possess, on the left side of the River Mississippi, except the town of New Orleans, and the island in which it is situated, which shall remain to France; provided that the navigation of the River Mississippi, shal be equally free, as well to the subjects of Great Britain, as to those of France, in its whole breadth and length, from its source to the sea, and expressly that part, which is between the said island of New Orleans, and the right bank of that River, as well as the passage both in and out of its mouth: It is further stipulated, that the vessels belonging to the subjects of either nation, shall not be stopped, visited or subjected to the payment of any duty whatsoever. The stipulations, inserted in the LVth article, in favor of the inhabitants of Canada, shall also take place, with regard to the inhabitants ofthe countries ceded by this article.

Now besides this France ceded to Great Britain various Islands in the West Indies, some of her possessions in Africa and in the East Indies. In Europe she gave up her conquests in Germany, restored the island of Minorica to Great Britain and stipulated to reduce her fortifications at Dunkirk. This was the most disastrous treaty for France that she had ever made, and it was the reason for the French alliance with the United States a few years later. But for this treaty there would have been no United States, no French alliance.

From Spain Great Britain received Florida and all district east of the Mississippi, and relinquished to Spain Havana and her other conquests. Spain was to pay Great Britain a certain sum of money for the relinquishment of the Philipines. By this treaty Great Britain acquired the privilege of cutting logwood for her subjects in the Bay of Honduras. This is interesting to us for it was the foundation ofthe British occupancy of Honduras. The Art. which relates to Honduras is this:

XVII. His Britannick Majesty shall cause to be demolished all the fortifications which his subjects shall have erected in the Bay of Honduras, and other places of the of the territory of Spain in that part of the world, four months after the ratification of the present treaty; and his Catholick Majesty shall not permit his Britannick Majesty subjects, or their work-

men, to be disturbed, or molested, in their occupation of cutting, loading, and carrying away Logwood; and for this purpose, they may build without hindrance, and occupy, without interruption, the houses and magazines, necessary for them, for their families, and for their effects: and his Catholick Majesty assures to them, by this article, the full enjoyment of those advantages, and powers, on the Spanish coasts and territories, as above stipulated, immediately after the ratification of the present treaty.

By Art.XVIII the King of Spain expressly renounced any right to fish in the neighborhood of Newfoundland.

Art. XIX provides for the restoration of Havana and its fortresses in the same condition in which they were when conquered by the British. Any British subjects who had settled there or who had purchased land were to be at liberty to sell and recover their debts and were to have passports for a safe withdrawal to English territory. For this purpose the term of eighteen months was allowed. But to avoid abuse the English vessels which were to sail to Havana to take away the person and effects of British subjects, were to be limited in number, to sail to Havana in ballast and at a fixed time, and each was to make one voyage only. All the effects belonging to the English were to be embarked at the same time. Spanish clerks were to be allowed in the vessels and any merchandise discovered on board was to be confiscated.

In compensation for Spanish losses, particularly of the Flordias, France conveyed to Spain by secret agreement, New Orleans and whatever remained to her of Louisiana.

The peace between Austria, Prussia, and Saxony was signed at Hubertsburg February 15th., 1763. By this treaty the position of Prussia was much elevated. Maria Theresa relinquished all claims to any part of Frederic's dominions. And the manner in which he had maintained himself in the Seven Years War caused

ed Frederic to be regarded as one of the chief factors in European politics.

But the greatest result of the conflict was in America where the power of England, now triumphant over that of France, was soon to be overthrown by the revolt which resulted in the establishment of the United States.

The struggle for territorial extension and for the expansion of commerce runs all through these wars of the eighteenth century, and the two influences were indissolubly linked under the restricted commercial system then in vogue. The main idea of a colony entertained by the mother country was an income from the colonial possession, either directly by way of tax, or indirectly through commerce. The colony formed on the one hand a source of supply from its native products, and on the other it afforded a market for home products. The results of this system were inevitable. Colonies were treated merely as prizes in war, and this treatment led to revolts which in some instances resulted in independence. The struggle for colonies and their commerce did not cease with the conclusion of the Treaty of Paris in 1763.

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CHAPTER XI

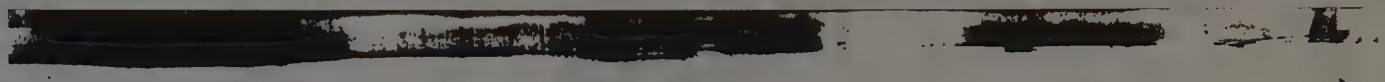
THE AMERICAN REVOLUTIONARY WAR AND THE PEACE OF 1783/

(1775 - 1783)

War Between GreatBritain and her American Colonies - Treaty of Alliance between the United States and France - Spanish Participation in the Struggle - The "Armed Neutralities" of 1780 - The Utrecht Rule that Neutral Flag Protects Enemy's Goods - Classifications of Contraband of War - Attitude of England on Contraband - Commercial Benefits of the War on Denmark, Sweden and Russia - St.Petersburg, under Catherine II, the Centre of European Diplomacy - British Capture of Dutch Merchantmen in the Mediterranean Sea - Spanish Seizure of Russian Ships - British efforts to provoke Hostilities between Russia and Spain - Declaration of Russia as to Rights of Neutrals - General Acceptances of the Declaration by Europe - Diplomacy of the Period as Described by Harris - United States, France, Spain and Holland against Great Britain - English Reverses and Political Changes - Preliminary Treaties of Peace (1782-83) between United States and Great Britian; Great Britain, France and Spain, Great Britain and Holland, - Definitive Treaty of Peace signed by the Powers September 3,1783.

(Tillinghast, pp.412, 426-432, 440-442).

When the war broke out between Great Britain and her American Colonies, public sentiment in France was naturally in favor of the latter and led the government to conclude an alliance with the Americans. On February 17th, 1778, France entered into an agreement with the United States in which it was stipulated that France engaged to support the independence of the United States and the United States on the other hand guarante-



ed to France her colonial possessions in America. But before this formal treaty of alliance, France furnished aid to United States as did Spain also on one occasion, but the war between France and England did not begin till June 1778 and then it began in an engagement between the navies of the two countries. In the following year Spain joined in the conflict. When first solicited to come into it by virtue of the "Family compact", Charles III held back and sought to mediate between the two powers, but England rejected his mediations and then Charles issued a hostile manifesito.

In 1780 was established armed neutrality. There is a work on this subject which goes into it deeply. It is by Femchille and on French Diplomacy and the League of Neutrality. Femchille has become a very well known writer on questions of Diplomacy. The subject of the Armed Neutrality can be understood only by the law of that time. For centuries there has been dispute as to the status of enemy's property on board a nebtral ship. We saw that by the treaty of Utrecht in 1713 a neutral flag was to protect an enemy's goods. This principle was not consistently observed and at the time of the American Revolution, England enforced in her prize courts the rule that an enemy's goods may be bought on neutral vessels.

Now this question as to the status of enemy's goods on neutral ships involved another one and that was the question as to what constituted contraband of war. Three classes have been recognized since the time of Grotius: 1) Munitions of war which are undoubtedly contraband; 2) Articles which have no special adaptation for war which are never treated as contraband; 3) Articles capable of a double use and which may or may not be contraband, according to the particular circumstances

for example, coal at the present time; provisions, flour, wheat, pork etc. Great Britain having maritime supremacy desired to extend contraband as much as possible. Great impetus had been given to the trade of Denmark, Russia and Sweden during the war as neutral carriers. Russia desired to enlarge her commerce. There was a great struggle at St. Petersburg between the British ambassador and those who were opposed to England for the favor of the Empress Catherine. At that time Catherine II had onefavorit, Potemkin by name, who was opposed by Panin. Potemkin was favorable to England, having been bribed. On the other hand, Panin was hostile to England and there was a contest between these two to recommend policies to the Empress.

In January 1780 a fleet of Dutch merchantmen under convoy to the Mediterranean was captured by a British squadron. Not long after this the Spaniards, acting in a spirit of retaliation to British rules, seized two Russian ships in the Mediterranean which had contraband of war on board. Sir James Harris, afterwards Lord Malmesbury, took advantage of this occurrence to endeavor to bring Russia into collision with Spain. Count Panin, however, used it for quite a different purpose: He induced Catherine to issue a Declaration as to the rights of neutrals. This declaration embraced five points. It in the Diary of Sir James Harris, Vol.I, p.291:

The five points of the armed neutrality being often alluded to in this Correspondence, they are here inserted.

1. Que les vaisseaux neutres puissent naviguer librement d'un port en port, et sur les cotes des nations en guerre.

2. Que les effets appartenant aux sujets des dites puissances en guerre soient libres sur les vaisseaux neutres a l'exception des marchandises de contrebande.

3. Que l'Imperatrice se tient quant a la fixation de celles ci, a ce qui est enonce dans les articles 10 et 11 de son traite de commerce avec la Grande Bretagne, en etendant ces obligations a toutes les puissances en guerre.

4. Que pour determiner ce qui caracterise un port bloque, on n'accorde cette denomination qu'a celui, ou il y a, par la



disposition de la puissance qui l'attaque avec des vaisseaux arretes et suffisamment proches un danger evident d'entrer.

5. Que ces principes servent de regle dans les procedures et les jugements sur la legalite des prises.

1) The first point is that neutral vessels might navigate freely from port to port.

2) Free ships made free goods, contraband of war excepted. Goods of an enemy are not liable to seizure on neutral ships. This is commonly called the rule of "free ships, free goods."

3) The third point relates to the articles which are to be considered as contraband: Articles X and XI in the treaty then in force between Russia and England. This third article of the declaration adopted these two articles in the treaty.

4) The forth point was that in order to be legal a blockade must be effective; and in order to be effective it must be protected by sufficient force.

5) The principles announced in the declaration should aid courts in determining the legality of prises.

Such in substance was the Declaration of Catherine II. The Declaration was immediately accepted by Sweden and Denmark which entered into an alliance with her for their enforcement; and this alliance was accepted in 1781 by the Netherlands, Prussia, Portugal and the two Sicilies. The Emperor of Austria accepted the principle but did not adhere to the alliances.

There are four volumes of this Diary of Sir James Harris; it is one of the historical sources of this period. The diary was not published till 1844; it is characterized by great candor. It covers the period from 1760 to 1797.

He wrote to Lord Stormont on the 11th April, 1780 as follows:

The following intelligence comes to me from so secret a channel, that I must entreat your Lordship to make a confiden-

tial use of it. Count Goertz received, a few days ago, a messenger from Potsdam, and has since had almost daily conferences with Count Panin and Prince Potemkin. The Emperor's interview at Mohilow gives the King of Prussia such uneasiness, that he has determined to send the Prince of Prussia here in September next, and the chief object of these conferences was to propose this visit. The Empress kept him three days without an answer, and I know was neither flattered nor pleased with the proposition; it was, however, accepted on Sunday, with every appearance of cordiality and friendship, and Count Goertz plumes himself on having carried a material point. He was, besides, instructed to paint the Court of Vienna in the blackest colours; to reveal to the Empress's mind the conduct it observed in the late Turkish war, its late views on Bavaria, and its still more recent conduct at Ratisbonne, where, by having brought over the Kings of Great Britain and Denmark, it had obtained a superiority which might produce the most fatal consequences; to endeavour to exasperate her, by insinuating that the Empress Queen was very adverse to her son's journey, and would not submit to it till she was assured the Emperor's morals would not be in danger, and that his capacity and experience were sufficient to overreach the dissipated train which would attend her. Count Goertz was then to enter on a wider field; the descant on the moderation and pacific disposition of his master &c.

He was to conclude this kind of political sermon by several false articles of intelligence forged for the purpose, and which though he cannot venture to hope they will be admitted as fact, he well knows tend to refresh those sentiments it is so much his interest to keep up here. Count Goertz executed his commission with zeal, but I have reason to believe has hitherto made little impression on the Empress. I wish I could say I was not apprehensive of his having staggered Prince Potemkin's faith, either from his arguments, or, what is more likely, by holding out to him some great personal advantage he may receive from serving his master. Count Panin opposed violently his going to Prince Potemkin, and on Count Goertz insisting on the necessity of obeying his instructions his Excellency flew into an outrageous passion, and threatened to abandon the Prussian interests. This lasted, however, a very short while, and they now appear perfectly reconciled.

As soon as I was in possession of what had passed, I lost no time in returning to Prince Potemkin, to counteract, if possible the effect of a conversation with which, however, I was supposed to be entirely unacquainted. Potemkin was as warm as ever in his expressions; he treated my apprehensions as groundless, assured me the Empress's sentiments for us were immoveable and that she never would appear amongst the active powers of Europe, but as our friend. I here reminded him of the conduct of prince Galitzin (Russian Minister at the Hague, and a partisan of the French. He had been urging the Dutch to act against England, which a prospect of trading with America invited them to do) at the Hague, and of the note I had given him a few days ago; he said he had not yet had a proper opportunity of showing it to the Empress, but that certainly he could not forget it. I urged to him the necessity of a disavowal of [illegible] unfriendly behaviour; of the disgrace it was to Russia to suffer her Minister to be led by a French Ambassador or, what was still worse, to receive instructions from any other Sovereign but his own.

On the 16th of April he wrote two letters referring to this same matter (id.p.296-297). On the 24th April,1780,he wrote the following:

My Lord:- It is now in my power to give your Lordship a more accurate account of the explanation required by the King of Sweden, the late Declaration (Note:For reference that the armed Neutrality) and of the answers of this Court, I was [illegible] on five points. (Note.Vide page 290).

Count Panin,as I before said,gave an immediate general verbal answer;but Baron Nolken asking for a written one,he declined giving it till he had consulted the Empress,and,as his Excellency says, in consequence of her commands,replied as follows,observing the order in which the questions were put. First,-The ships of war of each Neutral station shall protect the trade of all the others,providing the vessel requiring protection has its proper documents and be illegally attacked.This first answers the second question;but it is added, to render the protection more efficacious, stations shall be agreed on for the different squadrons to cruise in.Third, - As to the fleets acting in concert, it must depend on orders.If any of them meet,they are to observe the usual salute. Fourth,- Complaints are to be set forth by the Minister of the Court offended,but strongly seconded by those of all the other leagued states. Fifth,- If any of the confederated Neutral powers begin hostilities,such power is immediately excluded from the league.If either of the belligerent ones (the words are) commence des hostilites,soit par animosite,pique,ou autres raisons,on consertera des mesures pour se faire respecter.The paper ends with a pompous detail of the integrity and impartiality of the Empress's intentions,of the great effects this measure is likely to produce,and of the admiration it has already caused in Europe. (id.p.298-299).

Harris succeeded in practically nullifying the declaration. It is said to have cost 30,000 pounds sterling to accomplish this.The following letter throws some light on the manner in which this sum was expended:

(Separate) Petersburg, 15th, 26th May, 1780.
My Lord,- The present disposition and conduct of this Court was so much beyond the reach of my penetration,and yet so highly necessary to be fathomed, that I was determined to apply,in consequence of the permission I had received from your Lordship, to the only person whom Prince Potemkin admits to his entire confidence,and without whom he can do nothing. I mentioned him in my last despatches,and as I knew him,with every appearance of honesty,to be very venal,used little delicacy in addressing him. After a preface,by no means necessary to trouble your Lordship with,I told him,that it was in my power to do him a very essential service,if I [illegible] with the secrets of the public as with his,he could be of no use to me. I told him,that till he made me as well acquainted with them,I

should be of nouse to him. Our bargain was soon struck, by telling him I did not want assistance, but information, assuring him that from what I already knew, I should easily perceive whether he meant to deceive me, and that if he dealtfairly and honestly by me, he might be assured of future marks of liberality.

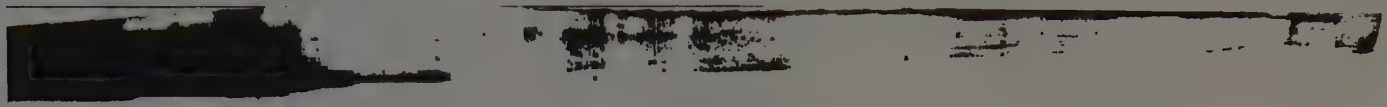
This being agreed upon, I put to him the following questions, requiring to each an explicit and satisfactory answer. What gave rise to the Declaration? Who drew it up? What were the Empress's first intentions, and whether they were still the same? Whether Potemkin is sincere in his show of friendship for me, and in his professions for serving my country? Or whether he is only amusing me, and serving our enemies, either in direct concert, or indirectly, through the King of Prussia? The steps France and Spain have taken to ingratiate themselves here, and how far they have succeeded?

His answers were. The Declaration was entirely a child of the Empress's own brain occasioned solely by the conduct of Spain. The Five Points required were in the rough draft she sent to Count Panin, and this Minister had added nothing material of his own in giving it its present form; that he was ignorant who put those Five Points into her head, but as she had for several months past, seen frequently St. Paul, her agent at Hamburgh, and Count Woronzow at the head of the Commission of Commerce, he believed she had collected them from conversation. At first, from habitual inclination, she leant towards us; since, the insinuations of her Ministers, and the adulation poured in on all sides, have got the better of her predilection, and she seems determined to observe the perfect Neutrality, though to our our prejudice.

Prince Potemkin is sincere in what he does and says; he dislikes the French, is piqued against the King of Prussia, and has turned a deaf ear to some very advantageous proposals that Monarch lately made him. He, however, is not sufficiently seal-coustin the sense of England, to depart from his habits of indolence and ease; and unless he is roused to activity by the opposition of Count Panin, he will not use his whole influence in our favour.

The French are indefatigable in the pains they take to cut round the Empress. They have innumerable agents, and spare neither expense nor trouble to overset everything we undertake. They have succeeded in adding Count Panin to the strong party they have here; and though the Empress still entertains a mistrust and kind of contempt for them, yet she is pleased with the their flattery, and thinks her power and reputation no where so well known and so rightly felt as at Versailles.

I asked what he meant by the advantageous proposals made by the King of Prussia to Prince Potemkin? He said, a promise of assistance to obtain the Duchy of Courland, and, if he chose it, to find him a wife amongst some of the German Princesses, none of whom, however, were named. I inquired how the Prince came to reject so flattering an offer. He replied, [illegible] he did not believe it sincere, but calculated solely to gain his goodwill during the interview at Mohilow. I asked him what Prince Potemkin thought of this interview, and how he was disposed towards the Court of Vienna. He answered, that the Prince had no regular system of politics; that he was led by impulse of the moment, and he had seen him almost adopt the political principles of every country. That at this moment he was particularly studious to cultivate the Emperor, who, if he chose it, might, by holding



out to him premises of a Principality, or some such lure, fix him to his interests for ever. I then desired him to give me his opinion of the present disposition and temper of this Court. He said it was too confined, too unconnected to admit of any distinction; that the whole depends on events, and that till some important one happened, he who could flatter the best, and give most into the Empress's weaknesses, would predominate; that there was no regular plan, no designs in future, no references to the past, and that I had nothing to do, but to apply the habits of the Empress's private life to her public conduct, and I should know just as much as he or any one else. He could only say, that if her greatest enemies flattered her she would give into their views, or be lulled to sleep by their praise; while, on the other hand, if her best and most approved friends resisted her will or opposed any of her measures, she would in the first moment, be disposed to break with them, and the impression of ill-will would sink deep.

He concluded by saying, that if she was fairly embarked she would never retract, and that if we could contrive once to make her declare herself avowedly our friend, we might be assured of being assisted, if necessary, with the whole force of her Empire.

Here finished our conversation. What he said was so perfectly conformable to what I see, and agrees so well with what I know, that I trust your Lordship will not think the money entirely flung away as I really believe it has procured a very true, though rather unsatisfactory picture of the state of this Court

First United States and Great Britain then France and Spain then the Dutch came in. Now against the great odds, Great Britain suffered numerous disasters. She lost her army under Cornwallis in America at Yorktown; Minorica was taken from her, and she was dispossessed of certain Islands in the West Indians Those reverses occasioned the down-fall of the Lord North Ministry. The Rockingham ministry succeeded. Of this administration Fox and Shelden both of whom were disposed to peace, and on the death of Rockingham in 1782 Shelden became prime minister. By Shelden several representatives were sent to France to sound the government and ascertain the points of the American plenipotentiaries of America. November 30th, 1782 a preliminary treaty of peace was concluded between Great Britain and the United States. The preliminary treaty between Great Britain France and Spain was signed January 20th, 1783, the preliminaries with the Netherlands were not concluded until September 2nd

1783. The definitive treaties between Great Britain, France, Spain and the United States were signed the next day, September 3rd, 1783.

In the Treaty with the United States, Great Britain acknowledged their independence, gave them a large part of the Western lands, and ceded to them full rights of fishing on the British North American Coast. France gained little in the way of territory but greatly increased her debt. In the treaty between Great Britain and France there is little change in the status of the two countries; it was worse for France than for great Britain on account of this debt. Spain recovered Minorica and Florida but failed to get back Gibraltar to recover which she had gone into the war; however, she came out better than France. Rights in East and West Florida were guaranteed. British Honduras, - Bayles - Wallace the adventurer. Between Great Britain and the Netherlands the most important concession was that which the Netherlands made of exempting British commerce.

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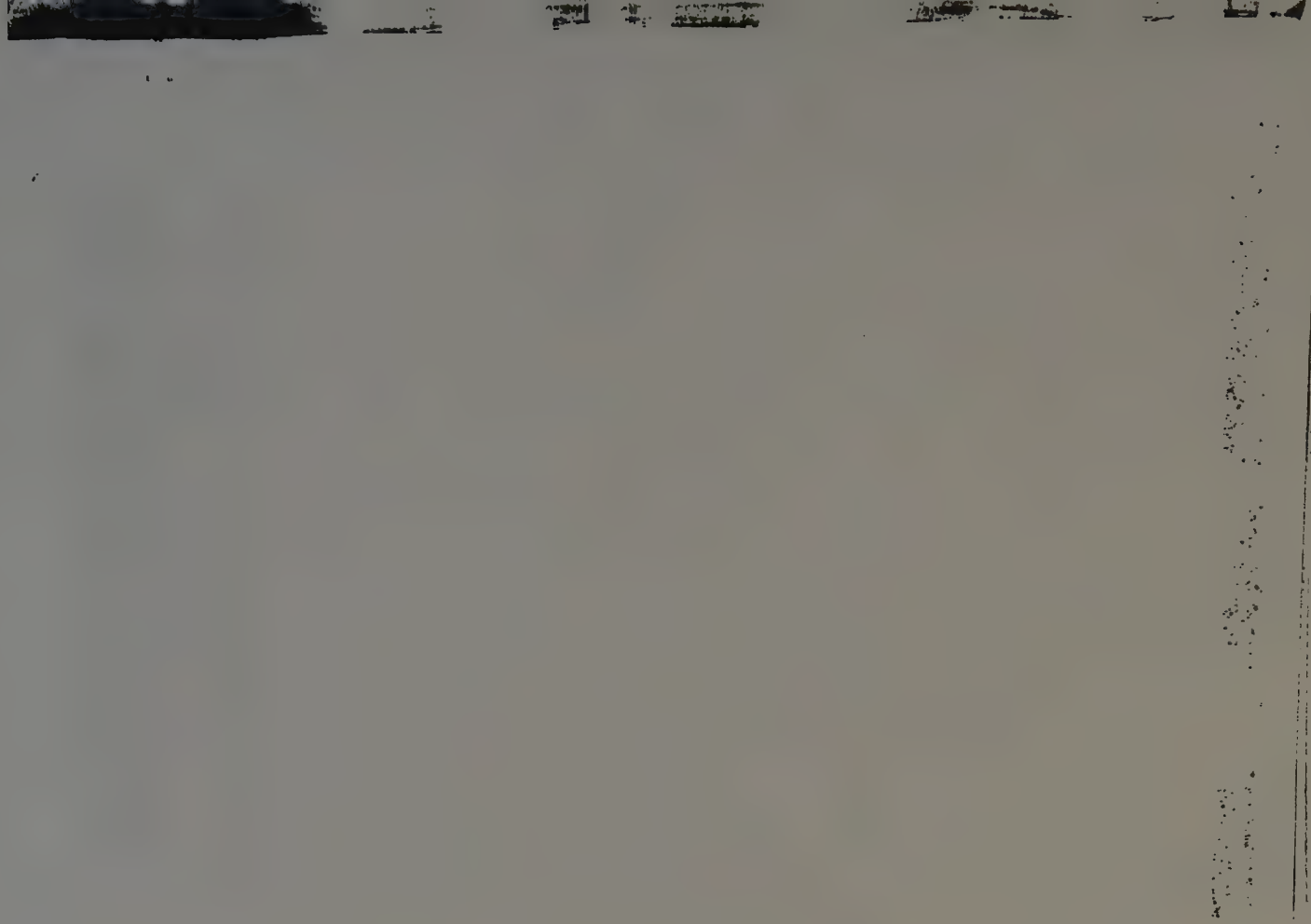
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CHAPTER XII.

THE PARTITION OF POLAND.

(1764 - 1795)

Chronic Political Anarchy in Poland - Armed Intervention of Russia in Support of the Polish King - Austrian and Prussian Invasion of Polish Provinces - Treaty at St.Petersburg between Russia,Prussia,and Austria: The First Partition of Poland - Declarations of Justification for the Partition - Causes leading to further annexation of Polish Territory - The Second Partition of Poland - Revolution in Poland under the lead of Kosciusko - Third and Final Partition of Poland - Breaking down of Maxims that had controlled before the Partition - The Present talk of the Partition of China.

(Tillinghast, pp.410-414).

We will now go back a few years to the Eastern part of Europe where the partition of Poland was taking place.Poland for a number of years had been in a state of chronic anarchy. In the Polish diet there was the liberal veto by which any member of the house could veto any measure that might be proposed. Taking advantage of this condition of affairs,Russia had been making advances toward Poland,and this excited the envy of Austria and Prussia. Seeing that Poland was about to be absorbed,Austria and Prussia attempted to secure a part of the spoils,and they were aided in this design by the fact that Russia was then (1770) engaged in war with Turkey. The Polish

provinces were invaded by Austrian and Prussian troops. Austria formally annexed the territory which her troops over-ran. Prussia omitted that formality but treated the territory which she had occupied with her forces as legally belonging to her. Under these circumstances Russia deemed it best to make terms with her rivals. This was done by a treaty signed at St. Petersburg on August 5th, 1772. Wheaton in his "History of the Law of Nations" says:

> We are now arrived in the course of our historical deduction at that period which was stained by the first partition of Poland, the most flagrant violation of natural justice and international law which has occurred since Europe first emerged from barbarism. The perpetration of this great political crime was facilitated by the obstinate adherence of the Poles to the radical defects of their national constitution, by their blind intolerance and factious dissentions. The absurd institution of the liberum veto, which legalised anarchy, could only be checked by the right of confederation which legalised rebellion. These faults rendered them an easy prey to the powerful military monarchies by which they were surrounded, but are far from excusing this original act of violence which has been consummated in our own times by the total extinction of Polish independence. (p.269)

And then in speaking of the negotiations between Russia and Prussia, he says at p.273:

> A convention between the two courts was consequently concluded at St Petersburg on the 17th February 1772, in which their respective acquisitions were ascertained, and it was stipulated that Austria should be invited to join in the proposed partition. That power accordingly acceeded on the 19th of the same month, but demanded for her share nearly one-third of the whole territory of Poland. She was at last induced to desist from a part of her pretensions, and a triple convention was signed at St Petersburg on the 5th August 1772, by which all that part of Lithuania North of the Dwina and East of the Nieper was secured to Russia; Gallicia and Lodomiria to Austria; and Polish Prussia, (except Dantzick and Thorn) with Great Poland to the river Netze to Prussia.

That was the first partition of Poland. After this arrangement was completed, the three Powers immediately took possession and published a declaration justifying what they had done. One of the first things they did was to compel the Polish King to convene the diet to confirm the cession of territory. From



this diet were excluded all nobles whose possessions lay in the annexed territory. In 1773 the approval of the diet to the treaties was extorted by force The foreign Powers sent troops to Warsaw itself to see that the treaties and statutes were properly executed. The territory was formally ceded, and then a new constitution was made for Poland under the guarantee of Russia This constitution was so devised as to keep the government weak and unstable. Such in brief was the first Partition of Poland. None of the Western Powers of Europe made any opposition to this partition. A movement toward intervention was started in France but nothing came of it.

Wheaton says that by the time this first partition was completed Catherine II treated Poland as a province of the Russian empire. But the Poles took advantage of the opportunity afforded by the fact that Russia was at war with Turkey to throw off the youke. Austria was an ally of Russia against the Turks. And the death of Frederic II had disturbed the close connection between Russia and Prussia. His successor sought to establish a triple alliance of Prussia with England and Holland as a means of making Poland independent of Russia. On the 29th March, 1790 an alliance was concluded between Prussia and Poland. In regard to which Wheaton quotes from Martens:

> This treaty stipulated that "if any foreign power, by virtue of preceding acts and stipulations, or of their interpretation, should assume the right of interfering in the internal affairs of the republic of Poland, or its dependencies at any time, or in any manner whatsoever, the King of Prussia will employ, in the first instance, his good offices to prevent the occurrence of hostilities growing out of such a pretention, and in case these good offices should fail, and hostilities should result against Poland, the King of Prussia, recognizing this as the casus casus foederis, will assist the republic according to the tenor of the 4th article of the present treaty. (Law of Nations, p. 275)

The conclusion of this alliance was followed by a new constitu-

tion abolishing the liberum veto and rendering the Polish crown hereditary in the Electoral House of Saxony. Wheaton quotes from Burke's Appeal from the New to the Old Whigs on this revolution in Poland. The Polish magnates opposed to this new constitution formed in 1792 a confederation in which they were supported by the empress of Russia. Frederick William II had become reconciled with Rusia and Austria for the purpose of suppressing the French revolution. The consequence was the second partition of Poland, which took place in 1793. And in 1795 the third partition of Poland followed on the insurrection in Poland under the lead of Kosciusko. Campbell wrote a poem on the fall of Warsaw, "Battle of Warsaw."

In concluding his discussion of the partition of Poland, Wheaton says:

A celebrated political writer has condemned this iniquitous spoliation, not merely as a departure from those rules of justice, by which the European community had been previously governed, and by the observance of which the independence even of the smallest states had been secured from the encroachments of the most powerful monarchies, but as a misapplication of the principles of the balancing system itself, by means of which that security had been so long enjoyed. This writer compares the political balance of power among nations to that system of checks and balances among the different orders of the same states, by which its constitution is preserved in healthy action under ordinary circumstances, but which becomes the source of fatal disorders when the different bodies of the state instead of uniting to promote the public good, combine in measures injurious to the common weal. In the same manner it may happen in the great society of nations that those forces which ought to be combined to protect the weak against the powerful, are united for the oppression of those whose security consists in the common interest which all have in preventing the aggrandisement of any one state at the expense of another. The first partition of Poland was attempted to be reconciled with the general principle of the balancing system, by dividing the territory taken from the republic among the several parties in such proportions as would leave their relative force the same as before. By this sophism the partitioning powers sought to palliate the evil consequences of an example which contributed more than any thing which had occured in the intercourse of nations, to shake the public confidence in that system, hitherto found efficatious in preventing such flagrant acts of injus-

"That rendered," says Von Gens, "the partition of Poland so much more injurious to the great interests of Europe than many other recent acts of violence, still more iniquitous in their conception and execution, was the fact that the injury arose from that very quarter whence the great society of nations had been taught to look for safety and protection. Separate leagues between several states had been hitherto commonly resorted to, as a protecting barrier against the power and ambition of the oppressor; the world now saw with consternation the possibility of such confederacies being formed to perpetrate those very acts of spoliation which had been hitherto prevented by similar means. The impression made by this unexpected discovery was the more painful, as the inventors of this evil project, in the whole course of their enterprise invoked the principles of the balancing system as their guide and polar star, and actually followed them, so far as circumstances would permit, in their division of the spoil, and whilst they inflicted the most fatal wounds upon the spirit and very existence of this system borrowed its external forms, and even its technical language. Corruptio optimi pessima: To behold this noble system, which the wisdom of the European community had devised for its security and welfare, thus perverted, was an odious spectacle; but the evil character of the deed was more fully brought to light by its disastrous consequences. The cause of public justice was every where betrayed and deserted. A rabble of loquacious sophists, who at this time began to shake the foundations of social order in France, when the mighty of the earth, not inflamed with a tumult of passion, but with deliberate strides and systematic purpose, had broken into the sanctuary of public law, made this unhappy incident the pretext for indecent mockery of the most sacred political maxims. Even the enlightened and virtuous part of mankind became infected with the contagion of doubt; unmindful that the purest fountains may become corrupted, that the most healing waters may be poisoned; unmindful that the most sensible blow which the federative system of Europe could receive, should only summon us in a more pressing manner to strengthen the foundations of the edifice, and to devise better contrived precautions to prevent a repetition of similar evils; they abandoned themselves to a comfortless distrust in the efficacy of political maxims, or to systematic indifference. How much this pernicious disposition of mind must have contributed to facilitate the practice of iniquity, and the spread of desolation, when at last came the evil days, in which all right was trampled under foot, and all order fell into ruin, cannot have escaped the notice of any attentive observer.

"Whilst the partition of Poland was the first occurence, which by a misapplication of the forms of the balancing system introduced extensive disorder into the affairs of Europe, so also it was one of the first by which the relaxation of public spirit and of a lively interest in the common welfare of states disclosed itself distinctly to view. The silence of France and England, the silence of all Europe, whilst such an alarming measure was contrived and carried into effect, is still more astonishing than the measure itself. The imbecility of the French cabinet at the period when the evening shades began to gather round the life of Louis XV, explains, but does not justify this silence. From England alone, and still less from the other powers, could any effectual opposition be expected whilst France was was dumb; but that no public demonstration, no energetic remon-

Cessions to the King of Bavaria - Federal Constitution Granted to Germany - Creation of the new Kingdom of the Netherlands - Restorations to the King of Sardinia - Partition of Italy - Neutrality and three new Cantons of Switzerland established - Importance of the Stipulation for free Navigation of Rivers - Supremacy of England.

We pass now to the period of the French revolution by which the diplomacy of Europe was thrown into confusion. From 1792 to 1815 the sanguinary conflict was in progress and formed its diplomatic centre about the French revolution.

When Louis XVI was driven from the throne he sought to support his cause by securing foreign intervention. He had been dethroned as the result of a propogandum that threatened the stability of monarchic government everywhere. Burke in his letter on the French Revolution discussed intervention; that is what he refers to when he uses the word "propogandism". Most of the Continental Powers expressed themselves as against the Revolution: Sweden denounced the indignities to which Louis was subjected at the time of his attempted flight, and broke off diplomatic intercourse with the revolutionary government. The [illegible] and even some of the Swiss cantons manifested their disapproval. That Austria should oppose the Revolution was inevitable; and the alliance between Louis XVI and the Emperor was one of the results of the policy of fostering an alliance between the houses of Burbons and Hapsburgs. The latter was the preeminent exponent of royal prerogative. The Emperor, Leopold, on hearing of the captivity [illegible], issued a circular letter to the different Powers of Europe appealing to them to unite in a demand for his liberation and to take measures to secure immunity to himself the royal family. Hardly less zealous in Louis' behalf was Freder-

is William II of Prussia. You will find a very full expression of those events in Lecky's History of England in the Nineteenth Century, Vol.V,p.535 et seq. He refers particularly to the abolition by France in August 1789 of feudal rights, an act which arrested the [illegible] of German princes in Alsace. The first hostilities grew out of this act.

It seems that at this time the condition of France was peaceful as regards other powers. At page 537 of this same volume, Lecky says:

The question of peace or war seemed, therefore, to depend on the attitude of the other continental Powers. Their combinations, alliances, and antagonisms had during the last few years been continually changing like the patterns in a kaleidoscope, and the last chapter but one will, I hope, have given a sufficiently clear idea of the objects at which they were aiming.

The policy of Russia was simple and perfectly consistent. She desired to appropriate as much as she could of the territory of Turkey, and what remained of the territory of Poland, and as a means to the latter end, to maintain in that unfortunate country a general anarchy and a strong Russian interest. Age had in no degree diminished the energy and ambition of Catherine, and a long career of success had given her a boundless self-confidence. No sovereign in Europe was employed in enterprises of aggrandisement so incessantly or so skilfully, with a more complete disregard for all moral scruple, with a more absolute and cynical indifference to the sacrifice of blood and of human lives. Thus, however, the French Revolution broke out, she was still occupied with her Turkish war.

The objects of the Emperor were less constant and more various. The close and unnatural connection which had subsisted between the Courts of Vienna and St. Petersburg during the reign of Joseph II was diminished - it was at first thought destroyed - by the death of that sovereign in February 1790, and the Convention of Reichenbach, which was completed in the following summer, withdrew Austria from the Turkish war..... Leopold had come to the throne with the reputation of an eminently far-seeing, cautious, and sagacious man, and his phlegmatic and procrastinating disposition was curiously unlike the restless and impulsive nature of his brother; but like most men of his temperament, he was hesitating and irresolute, and these [illegible] were more conspicuous in foreign than in domestic policy. The bad condition of Austrian finances greatly strengthened his pacific tendencies. Since 1756 Austria had been in close alliance with France, and Kaunitz, who was the chief author of that alliance, though in extreme old age, had still a great influence on Austrian affairs. [illegible] of alliance. With Poland he was on friendly terms, but his relations with Holland were still troubled, and the difficulties

which had arisen about the negotiations at Sistova made it for some months very probable that the Eastern war might again extend its area, and that Russia and the Emperor might be found in armed opposition to Prussia, England and Turkey. Among English politicians the Emperor was at this time regarded with extreme distrust.

Prussia, as we have seen, was still in close alliance with England and Holland, but her national policy was steadily directed to two objects. The first was, to oppose and weaken in every field the Austrian power, which overshadowed her in Germany. The second was, to increase her Polish possessions by the annexation of Dantzig and Thorn. She was much disappointed by the failure of the ingenious combinations by which she sought to obtain this end, and the Triple Alliance had been more than once severely strained. England and Holland were great colonial Powers, but in Europe their supreme interest was the maintenance of a permanent and secure peace. Prussia, on the other hand, was a rising Power eagerly bent on territorial aggrandisement. Unlike the other continental Powers, she possessed a regular treasure accumulated with a view to war, and it was the firm conviction of her King that his army was the best in Europe. Under such circumstances it is not surprising that the difficulty of maintaining a united policy between England, Holland, and Prussia, should have been extremely great; but Pitt attached the utmost value to the Prussian alliance, and hoped, by gradually drawing the Emperor into it, to establish a connection which would secure to Europe that long period of peace which he most ardently desired.

It was on the action of these three Powers that the question of peace or war with France mainly depended. The Kings of Spain and Naples, indeed, and the Duke of Savoy were ready to give the French emigrants some hopes and even some money, and Gustavus III of Sweden was not only ready but eager to draw the sword on their behalf. Perfectly incapable either of lasting [illegible] or resentment, and caring for little but the excite- [illegible] in close al- [illegible] with pain [illegible] itself in new trouble. But his exchequer, [illegible], was empty, [illegible] he could [illegible] without the subventions of his neighbours.

On page 547 Leckey states that the exiled princes had organized and armed a considerable force and were trying to get up a hostile movement among the powers to nulify the effects of the Revolution. And at page 555 he goes into the design of [illegible] following

[illegible] says:

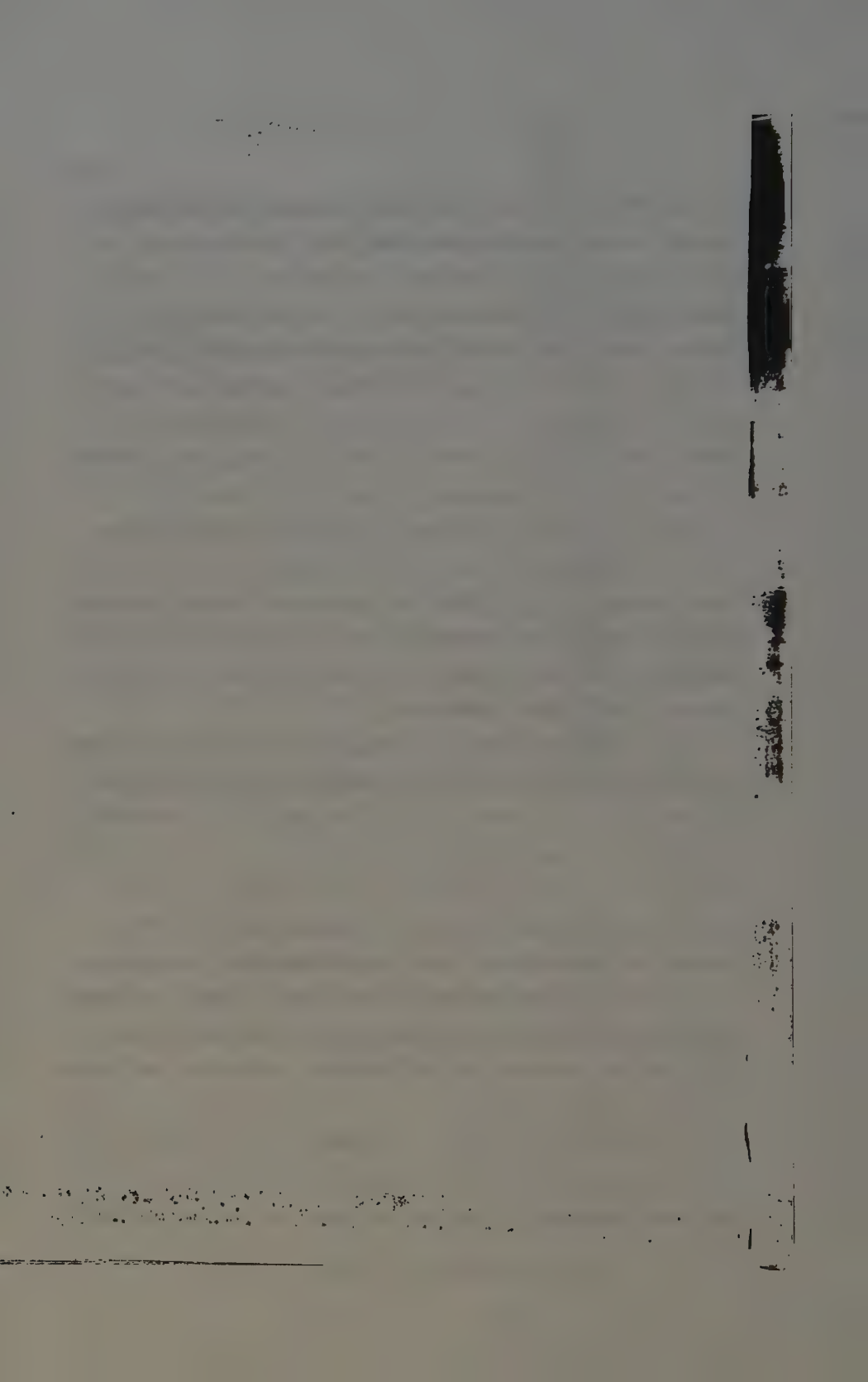
[illegible] question of armed intervention in France was now con- [illegible] in [illegible], and it is evident from the confidential diplomatic correspondence, that the King of Prussia.....was increasingly anxious for such an expedition, while [illegible] [illegible]



On page 557 et seq., you will find references to the Declaration of Pilnitz issued August 27th. 1791 in which the Emperor and the King of Prussia declared the situation of the King of France a matter of common interest to all the sovereigns of Europe. It is known by the private correspondence of Catherine II of Russia that she was desirous of inciting war between Prussia and France. She was hostile in her expressions in regard to the French Revolution but she was influenced by Prussia and Austria as she had matters of her own to attend to.

Louis XVI did, as you know, accept the constitution but afterwards appealed to the sovereign Powers to intervene after some months. Vol. V, p.591: The question of Alsace is re-introduced and becomes the immediate occasion of Hostilities. The Emperor of Austria was anxious for war as Prussia was. (Read to end of the volume pp.591-602).

For a discussion of the entrance of England into this war see Vol.VI Chap.XXII of Lackey's History. When the war broke out the earlier idea was that Great Britain should be neutral. This was the policy of Pitt. The first thing that aroused feeling in England was the invasion of the Austrian Netherlands (what is now Belgium) by France. Leckey thinks that Pitt should have intervened at this time to maintain the independence of the Austrian Netherlands; the event of which, as Lecky maintains, is that of the invasion of Holland, and the position of England in reference to that question is defined. See volume VI, p.[illegible] et seq., p.[illegible] et seq. At page [illegible] of that volume it says that the first important step which England took, looking toward war, was to send Lord Auckland at the [illegible] a formal declaration which was to be presented to the States-General and to be made public



assuring Holland of the enviolable friendship of England and of her full determination to execute at all times, and with the utmost good faith, all the stipulations of the Treaty of Alliance she had entered into in 1788. This treaty had been signed at the Hague on the 25 April 1788. The text of the treaty is in the Annual Register for the year 1788 (Vol.30, pp. 272)-(275

Now this treaty provides, reciting first the relation of friendship between the two Powers, that they had resolved to make an alliance to defend each other in peace and tranquility. Art.II stipulates that if any hostile power attacks the other in any part of the world, the other contracting party will come to the rescue with aid, with a view to preserving the territorial integrety of the other. Art. III guarantiss the hereditay Stadholderate in the house of Orange as provided in the constitution of the United Provinces according to the resolutions and diplomas of the year 1747 and 1748, by virtue of which the house of Orange took possession of the office of Stadtholder in 1766 and was reinstated in the same in 1788. This form of government was a British undertaking to maintain against all attacks of whatever nature. It was these stipulations that England now promised to fulfill.

The subject of English intervention is considered by Lecky Vol. VI, p.60 et seq. He says:

The justification or condemnation of English intervention in the great French war turns mainly upon this question. (That is, as to whether or not England was bound, both in honour and policy, to draw the sword). We have already seen that there had long existed in Holland a democratic and revolutionary party which was violently opposed to the House of Orange, which had been defeated by the efforts of prussia and England, and which, before the French Revolution, had been in close alliance with France. We have seen how bitterly the defeat of that party had been resented in Paris; how warmly it was welcomed by the French Revolutionists, and how early the overthrow of the existing Dutch Constitution was spoken of as a

possible result of the Revolution. In January 1792, a deputation of 'Dutch Patriots' had presented a petition to the National Assembly, describing their plans for establishing liberty in Holland, and restricting the authority of the Stadholder, and requesting the favour of France, and the President had replied that the French people would always be their allies as long as they were the friends of liberty. In the following June, Lord Gower mentioned to the English Government that the French intended to raise for their service a body of between three and four thousand Dutch patriots, and in the same month Grenville informed Gower that Lord Auckland had been writing from Holland "that a project was supposed to be in agitation for an attack upon some of the Dutch ports from Dunkirk, by the legion of Dutch patriots now raising." Gower at first regarded this report as wholly untrue, but he soon after wrote: "I must retract my opinion that apprehensions entertained in Holland with regard to the Dutch legion are perfectly ill-founded. It was originally to have consisted of 4,250 men, but it is now to be augmented to 6,000"

The apprehensions of danger, however, in this quarter did not become acute until after the totally unexpected issue of the expedition of the Duke of Brunswick, and the triumphant invasion of the Austrian Netherlands. A great revolutionary army flushed with victory was now on the borders of Holland, and a rising of the 'Patriots' party in that country might at any moment be expected.(pp.60-61)

It was plain, however, that unless the war in the Netherlands was speedily arrested, the chances of preserving the Dutch territory inviolate was infinitesimally small. On the same day, therefore, on which the English Government despatched their memorial to Holland, they sent instructions to the English ambassadors at Berlin and Vienna, directing them to break the silence on French affairs they had hitherto observed in their communications with those Courts.(p.63)

The direction given to the French ambassadors to pursue the Austrians if they retired into Dutch territory was a flagrant violation of the laws of nations, while the opening of the Scheldt was a plain violation of the treaty rights of the Dutch. Their sovereignty over the river dated from the Peace of Westphalia by which the independence of Holland was first recognized. It had been confirmed by the treaty of 1788, inwhich France herself acted as guarantee; and it was one of those rights which England, by the treaty of alliance in 1788, was most formally bound to defend. It would be impossible to conceive a more flagrant or more dangerous violation of treaties than this action of the French. It implied that they were absolute sovereigns of the Austrian Netherlands, for those provinces alone were interested in the question. It established a precedent which, if it were admitted, would invalidate the whole public law of Europe, for it assumed that the most formal treaties were destitute of all binding force if they appeared in the light of the new French philosophy to be contrary to the laws of nature or 'remnants of feudal barbarism;' and the decree of the French Executive was confirmed by the Convention, immediately after the memorial to the Dutch States-General, by which England had pledged herself in the most formal manner to fulfil all the obligations she had assumed by the treaty of 1788(pp.7-8)

The execution of Louis XVI destroyed most of the sympathy that had existed in England toward the French Revolution. Parliament was summoned to enact war measures; previous to this, however, acts looking to hostilities had been taken. Parliament met December 13, 1792 and authorized the King to increase his military and naval forces. A bill was introduced to place all foreigners under surveillance. Lecky in chap.xxii of Vol. VI, p.73 et seq., has a few pages on this subject, but he soon branches off and takes up the Polish question. On the 1st. of February 1793 the Convention at paris declared war against both the King of England and the Stadholder of Holland.

After England entered into war against France she formed a coalition and made treaties with the Emperor, August 30, 1793; with Hanover, March 4th, 1793; with Russia, March 25th; Prussia July 14th, 1795; with Sardinia, April 25th; with Spain, May 25th with Portugal, September 26th, 1793; with the two Sicilies, July 12th, and with several of the minor States. Before the close of 1793 all the Christian Powers of Europe had entered the league [illegible] Switzerland. England was the center and life of the coalition. The struggle between Great Britain and France showed this more and more.

On April 5, 1795 was signed a treaty by which Prussia withdrew from the coalition, for the text of which see "Annual Register, 1795" p.137, and on p.(140) the declaration of the King of Prussia justifying the treaty. It was very difficult for [illegible] successful in over-running the low Countries. See id.p.(208).

[illegible] story. On July 23rd, 1795 a treaty of peace was signed between

France and Spain. Spain followed Prussia in getting out of the coalition. See Annual Register 1795, p.147) for the text of the treaty. On the 19th August 1796 a defensive and offensive alliance was formed between France and Spain. Annual Register 1796, p.167) for text. In the same volume, pp.195-197 will be found the Spanish declaration of war against Great Britain of the date October 5th 1796; and at p.141-147 the answer of the British government. The war against France was very unpopular in Spain. This Spanish manifesto of war in October 1796 alleges as one of the principle grounds for complaint the general manner in which England had behaved toward the King of Spain during the whole war, and especially the bad faith of the English minister in maintaining silence upon the subject of all negotiations with other Powers, particularly in the treaty of the 19 November 1794 with the United States of America, without any regard to well known Spanish interests.

In the answering declaration the British Government says that most of the Spanish charges consist either of matters manifestly innocent and indifferent in their nature, or of imputed opinions and intentions of which no proof is adduced, nor any effect alleged.

Now the first part of the European war growing out of the French Revolution was brought to a close by the Peace of Amiens March 27th 1802. The war that succeeded it lasted till 1814. In the Correspondence between Great Britain and France 1803 you will find several communications to the British government in regard to this so-called Peace of Amiens. It turned out to be a mere truce. So far as it is correspondence is concerned the most important part of it is that which relates to the tenth article of the treaty of Amiens which stipulated that the is-

land of Malta should be restored to the order of St. John of Jerusalem. The British had captured and held Malta and that Government refused to restore it as provided in this tenth article of the treaty of Amiens, on account of the alleged failure of Napoleon to keep the treaty on his part. This Peace of Amiens was hardly regarded at the time as a lasting peace. In the American State Papers, Vol.II, p.547 there is published a letter of the date March 12th 1803 from Robert R. Livingston to the President of the United States in which is recorded a conversation between Napoleon and the British ambassador which occured just before the breach of the Peace of Amiens. Livingston says:

I broke off this part of my letter to attend to Madame Bonaparte's drawing room, where a circumstance happened of sufficient importance to merit your attention. . . After the First Consul had gone the circuit of one room he turned to me, and made some of the common inquiries usual on these occassions He afterwards returned and entered into a further conversation. When he quitted me, he passed most of the other ministers merely with a bow, went up to Lord Whitworth, and, after the first civilities, said: "I find, my lord, your nation want war again" L.W. "No, Sir, we are very desirous of peace." First Consul: "You have just finished a war of fifteen years." L.W. "It is true, sir, and that war was fifteen years too long." Consul: "Then you want another war of fifteen years." L.W. "Pardon me, Sir, we are very desirous of peace." Consul:"I must either have Malta or war." L.W. "I am not prepared, Sir, to speak on that subject; and I can assure you , citizen First Consul, that we wish for peace." The prefect of the palace then came up to the Consul and informed him that there were ladies in the next room and asked him to go in. He made no reply, but, bowing hastily to the company, retired immediately to his cabinet, without entering the other room.

This is taken from our ambassador's report, and indicated that war was imminent. Mr. Henry Adams gives an account of the same [illegible]. Just at this time the negotiations for the purchase of Louisiana by the United States were in progress. This sale of Louisiana was part of Napoleon's [illegible]; he needed more funds. Talleyrand was the agent for France in the sale.

In May 1804 Pitt returned to power,and at once set about forming another alliance or coalition. On May 1805 a treaty of alliance was entered into with the Emperor of Russia.The text of the treaty is in Garden,VIII, p.327. Austria hesitated to join the league. Prussia sought to remain neutral. In May,1805 Napoleon assumed the crown of Italy. Meanwhile he was planning his invasion of England (cf Mahan, II, 116,117) which was prevented by the battle of Tratalgar. The course of Napoleon in Italy induced the Emperor of Austria to join the league between England and Russia. Napoleon,however,defeated the Austrians and crushed the Russian army at Austerlitz. On December 26th,1805 Austria signed with France the treaty of peace called the Peace of Pressburg. See Martens VIII, p.388. By this treaty the Emperor of Austria gave up the Venetian state to Italy of which he recognized Napoleon as King. Austria was thus completely shut out of Italy.

Subsequently the Austrians were defeated in 1807 at Friedland,and in June of that year Napoleon met the Emperor of Russia and concluded a treaty with him on July 7,1807,known as the Peace of Tilsit. By this treaty Alexander recognized the "Confederation of the Rhine"as well as the new kingdom of Westphalia which Napoleon erected for his brother,Jerome Bonaparte; and the other political schemes of Napoleon were generally recognized (cf.Tillinghast 469-470). Napoleon had before undertaken to put in force his "Continental System"the object of which was to conquerer England by destroying her commerce. Mr. Henry Adams in his History of the United States,discusses this Continental System as well as it is discussed anywhere.It was an important part of the history of the United States at that time.It was that which created the conditions which led to the

war of 1814 with England. There were British "Orders in Council" to counteract the effect of the Berlin and Milan decrees etc. The Berlin and Milan decrees were the most important ones.

The attempt of Napoleon to enforce his Continental System had a curious result; so far as we were concerned it embroiled us in war with Great Britain rather than with Napoleon. For a discussion of this Continental System see Mr. Henry Adams's History of the United States, particularly Vol. III, p.390 et seq IV p.30? et seq. V, pp.63,139,143,242; VI, pp.265-6. And also Adams's Writings of Gallatin. No other writers bring out with greater clearness the Continental System of Napoleon. See also Moore's work on International Arbitration, Vol. V, p.4447 et seq:

On April 8,1806, the British Government, in retaliation for a decree of Prussia, issued on the occupation of Hanover, excluding British trade, declared the mouths of the Ems, Weser, Elbe, and Trave to be in a state of blockade. On the 16th of May a similar declaration was made in respect of the whole coast of the continent, from the river Elbe to the port of Brest, inclusive. In the following September this blockade was declared to be discontinued as to the coast from the Elbe to the Ems.

In the meantime Napoleon had been meditating the adoption of further measures for the enforcement of his continental system. On the 14th of October 1806 he dispersed the Prussian army at Jena, and on the 27th of the same month entered Berlin. On the [illegible] of November, [illegible] before setting out from the [illegible] capital on his journey to Poland and Russia, he signed at the Imperial camp the famous Berlin Decree, which significantly declared that its provisions would "continue to be looked upon as embodying the fundamental principles of the Empire" until England should return to the observance of the law of nations on land and sea. In the preamble to the decree it was recited that England did not recognize the law of nations; that she made prisoners of war of noncombatants, and confiscated private property; that she declared places in a state of blockade before which she had not even a single ship of war, and assumed to extend the right of blockade to entire coasts and the whole of an empire; that the object of these measures was to ruin the commerce and industry of England upon the ruins [illegible] of the continent; [illegible] every vessel on the continent in England goods rendered himself an accomplice of her designs. To oppose an enemy with such arms as he made use of was a natural right, and it was therefore decreed:

1. That the British Isles were in a state of blockade.
2. That all commerce and all correspondence with them were prohibited.
3. That every English subject found in the countries occupied by French troops, or by those of her allies, should be made a prisoner of war.

4. That all property or merchandise belonging to British subjects should be regarded as lawful prize.

5. That all trade in English goods was forbidden, and that all merchandise belonging to England, or coming from her factories or her colonies, was lawful prize.

6. That half the product of confiscation under the preceding articles should go to indemnify merchants for losses suffered by the capture of their merchant vessels by English cruisers.

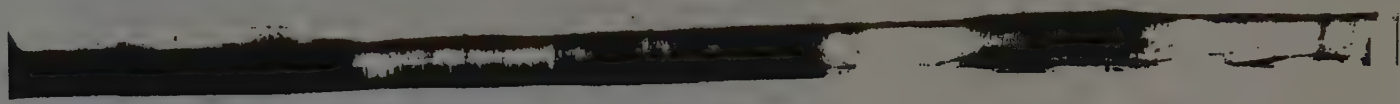
7. That no vessel coming directly from England or from the English colonies, or which should have been there since the publication of the decree, should be received in any port.

8. That any vessel contravening the preceding provision by a false declaration should be seized and the vessel and cargo confiscated as if they were English property.

In all cases arising under the decree in the empire, or in the countries occupied by the French army, jurisdiction to pronounce final judgment was vested in the Council of Prizes at Paris. The Council of Prizes at Milan was authorized to pronounce final judgment in cases arising "within our Kingdom of Italy." It was also ordered that the decree should be "communicated by our minister of foreign affairs to the King of Spain, of Naples, of Holland, and of Etruria, and to our other allies whose subjects like ours, are the victims of the unjust and barbarous maritime legislation of England." And finally, it was declared that "our ministers of foreign affairs, of war, of marine, of finance, and of the police, and our directors-general of the ports are charged with the execution of the present decree so far as it affects them."

When Armstrong, then minister of the United States at Paris read this decree, he sought from Decrès, the minister of marine, an explanation of it. Decrès answered that he considered it "as thus far conveying no modification of the regulations at present observed in France with regard to neutral navigators, nor consequently of the convention of September 30, 1800, with the United States of America;" but he cautiously added that it would be proper for Armstrong to communicate with the minister of foreign affairs, Talleyrand, who might have more positive information on the subject. Talleyrand was then absent. Literally and indeed naturally construed, the decree directly violated the twelfth, thirteenth, and fourteenth articles of the convention of 1800, which respectively guaranteed freedom of trade with the enemy in goods not contraband, restricted contraband to certain enumerated articles, and provided that free ships should make free goods. For a period of nine months the Government of the United States, by being kept in a state of hopeful uncertainty as to the effect of the decree was led to appear to acquiesce in it. (4447-4449)

To the imperial measures the British Government quickly responded. On January 7, 1807, Lord Howick, referring to the Berlin Decree issued an order in council by which neutral vessels were forbidden to trade from one port to another, both of which were in the possession or control of France or her allies. On the 11th of November further orders were issued. These orders, which were issued on the advice of [illegible] and Canning, and against the remonstrance of Lord Bathurst, the president of the board of trade, prohibited neutral vessels from trading with the ports of France and her allies, and with all ports in Europe from which, though they were not at war with



His Britannic Majesty, the British flag was excluded unless such vessels should clear from a British port under regulations to be prescribed in the future. By these orders the ships were required to import their cargoes into England, subject to the laws regulating the payment of customs, and thus to carry on their commerce by way of England.

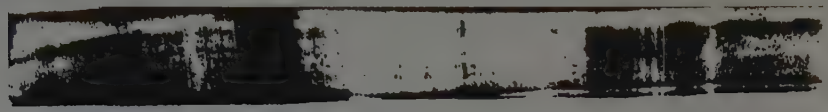
On the 17th of December 1807, Napoleon issued at Milan, in retaliation for the British orders in council of the 11th of the preceding November, a decree by which he declared:

1. That every ship that had submitted to be searched by an English ship, or had consented to a voyage to England, or had paid any tax to the English Government, was ipso facto denationalized, and was to be deemed good prize.

2. That the British islands were in a state of blockade, and that every ship that should sail from or be destined to a port in Great Britain or the British possessions, or in any country occupied by the British troops, should be good prize.

To the remonstrance of the United States the French Government replied that, as the result of the orders in council of November 11, 1807, war existed in fact between England and the United States, and that the Emperor had ordered that the American vessels which might have been brought into the ports of France "should remain sequestered until a decision may be had thereon according to the disposition which shall have been expressed by the Government of the United States. On February 17, 1808, Armstrong said it would appear, from a communication from the minister of marine, that the promise of forbearance would apply only to vessels sequestered in French ports, and not to such as had been captured at sea; and on the 22nd of February he reported that two of the sequestered ships and their cargoes had been confiscated by a special decision of the Emperor. On the 18th of July he reported a demand which he had made for an avowal or disavowal of the destruction of four American ships and their cargoes on the high seas by Admiral Bandin. (pp. 4450-4451).

Our ships you see were to be compelled to stay in port Napoleon ordered the seizure of all ships in Dutch, Italian etc., ports on the ground that by the laws of our own country they had no right on the seas and therefore must be in interest of British commerce. This whole policy was not original with Napoleon; The Berlin decrees was prefigured by the Directory decrees under the Revolution. But Napoleon gave it force and devoted his whole energy to it: that is why he over-run Italy, Spain and Europe generally; his purpose was to exclude Great Britain from the continent. If you read the prize cases of that time you will find a mass of fraud; it was impossible to carry on commerce honestly. Our vessels actually used to go under



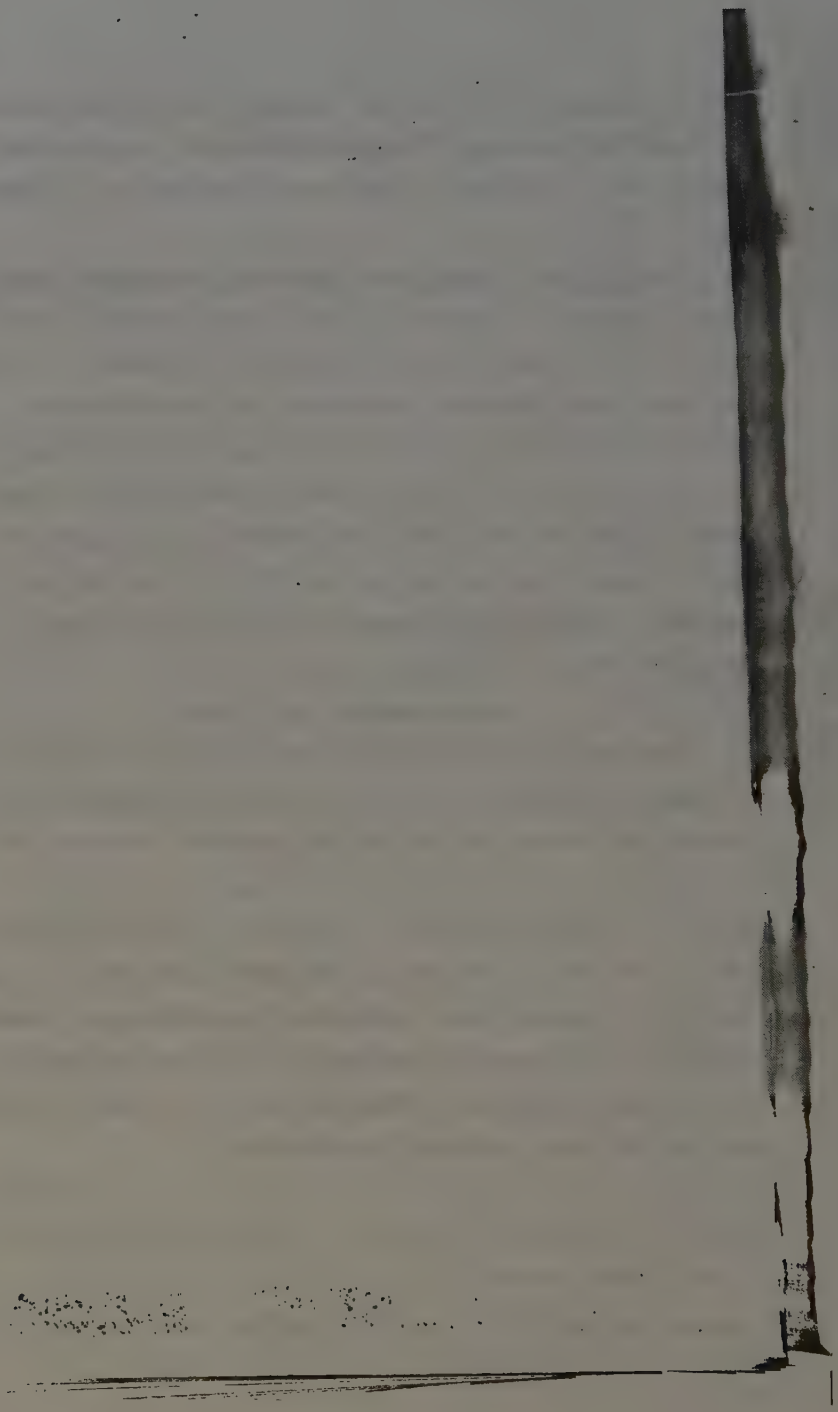
British convoys. Nearly all our vessels that had been seized by the Danes had been under British convoy, and this was urged against our claims, but it was argued that that was no legal bar.

May 30, 1814, a treaty was signed at Paris under which France retained its limits entire as they existed on the 1st of January 1792 besides several districts in Germany and Savoy. The conquests of England from France were restored except Tabago, St. Lucia, and Isle de France Rodugues and Les Seschelles. The German states were to be united in confederation. Many other questions were left to be adjusted at a congress which was to assemble in two months. You will find the text of this and other treaties of subsequent date in the work, "Map of Europe by Treaty" by Hertslet, Vol. I.

Vienna Congress and Treaty.

This congress was opened November 14, 1814, at Vienna and it closed its labors on the 9th June 1815. The Emperors of Austria and Russia were present in person as were also the Kings of Prussia, of Denmark, Of Bavaria, of Wurtemburg, the Elector of Hesse, Grand Duke of Baden, and many other European princes. The Duke of Wellington and Castlereagh were the negotiators for Great Britain: Talleyrand and Dalberg for France; Metternich for Austria; Hardenberg and William von Humboldt for Prussia; Nesselrode and Rasoumoffsky for Russia. Spain, Portugal and the Pope were also represented.

Though Napoleon had attempted to rearrange matters of Europe by conquest, the congress at Vienna exhibited hardly less scruple in the distribution of territory. The final act was signed on June 9, 1815. See Hertslet, Map of Europe by Treaty, Vol. I, p. 203. No. 87, for text. It was a summary of the parti-



lar treaties entered into by the various parties, the texts of which preceded it in six volumes. The treaty fills sixty-four pages and summarizes all the preceding treaties. Spain did not sign the treaty but acceded to it. Four pages of the treaty is taken up with the designation of the titles, offices, honors etc. of those who signed it. "Knight of the Golden Fleece" is one of the most important orders in Europe. The Duke of Wellington was also a Knight of the Golden Fleece.

This Treaty of Vienna was signed by Great Britain, Austria, France, Russia, Swedon, Spain and Portugal. By this treaty the Grand Duchy of Warsaw was, with certain exceptions (ceded to Russia) as the kingdom of Poland, and it was stipulated that "a distinct administration" should be extended to the Grand Duchy such as the Czar should judge convenient and which he should judge proper. That distinct administration was abolished by act of the Czar, February 26, 1832.

The principle of the free navigation of rivers and canals is upheld in the treaty by Article XIV. And then certain questions as to the treatment of Polish subjects of Austria and Russia were settled.

The kingdom of Saxony was divided, and two-fifths of it went to Prussia, as the Duchy of Saxony. Prussia also obtained Swedish Pomerania, the greater part of Westphalia, and the large and populous territory which extended on the left bank of the Rhine to the confines of France and the Low Countries, including Cologne, Coblenz, Aix la Chapelle, new Arsberg, [illegible]. The ancient electorate of Hanover was altered and a new kingdom established which was aggrandized by neighboring districts; in this new kingdom Prussia secured important rights of commerce and navigation. The King of Bavaria obtained the [illegible]

Duchy of Wurtzburg, and the principality of Aschafenburg. The city of Frankfort was declared free, and various other changes were made in German principalities. Now in addition to these stipulations there was guaranteed to Germany a federal constitution. This was called the "Germanic Confederation" (Articles LIII - LXXX of the Treaty), viz:- The Diploma of the

Art. LIII. The Sovereign Princes and Free Towns of Germany, under which denomination, for the present purpose, are comprehended their Majesties the Emperor of Austria, the Kings of Prussia, of Denmark, and of the Netherlands; that is to say:-

The Emperor of Austria and the King of Prussia, for all their possessions which anciently belonged to the German Empire:

The King of Denmark, for the Duchy of Holstein;

And the King of the Netherlands, for the Grand Duchy of Luxemburg;

establish among themselves a perpetual Confederation, which shall be called, "The Germanic Confederation."

Art. LIV. The object of this Confederation is the maintenance of the external and internal safety of Germany, and of the Independence and Inviolability of the Confederated States.

Art. LV. The Members of the Confederation as such, are equal with regard to their rights; and they all equally engage to maintain the Act which constitutes their union.

Art. LVI provides that the affairs of the Confederation shall be confieded to a Federative Diet, in which all the Members were to vote by their Plenipotentiaries, each of the 17 Members of the Confederation having one vote, making 17 votes in all. By Art. LVII it is stipulated that Austria shall preside at the Federative Diet, and that each State has the right of making propositions. Art. LVIII provides for a majority vote in the enacting of fundamental laws; and the following Arts. regulates the manner of voting etc. in the Diet.

There was a provision subsequently made or law to settle difficulties between the princes of the Confederation by arbitration. A majority vote was necessary in the framing of organic laws. The states of the Confederation agreed to defend [illegible] but not to make war on each other but to submit difficulties and disputes to the Diet committee etc. There was



a subsequent law on this point,it will be found in my work on Arbitrations,Vol.V, p.5086.

The treaty also erected the new Kingdom of the Netherlands.What had been the Austrian Netherlands were given to what was formerly the Netherlands. In exchange Austria received the provinces of Venetia and Lombardy. The Kingdom of the Netherlands was also united with the Ducal crown of Luxemburg.

The King of Sardinia regained his dominions with the exception of certain parts of Savoy which were ceded to France and Switzerland.For the most part Italy was partitioned out among the various princes of the House of Hapsburg and the House of the Bourbons.

The nineteen Cantons of Switzerland were increased to twenty-two and the neutrality of Switzerland was affirmed. The part relating to Switzerland is Art.LXXIV and following. The integrity of the 19 cantons is recognised as the basis of the Heletic system;and three new cantons added by the accession of Geneva,Vallis and Neuchatel. There are a great many provisions in this treaty of Vienna regarding debts,boundries etc. And a very important part of the work of the Vienna congress was the agreement as to the free navigation of rivers etc Arts.CVIII-CXVII. Art.CXVIII provides that Commissioners,nominated by the particular soverigns,shall assemble within six months after the termination of the Congress of Vienna,to regulate all that pertains to the free navigation of Rivers which cross the States of the respective Powers.The principles which are to guide this Committee are then set forth in Arts. CIX-CXV.

While the Vienna Congress was deliberating Napoleon left Elba,landed at Cannes and with a small force marched upon Paris

All the troops sent against him went over to him and he entered Paris March 20th 1815. King Louis XVIII fled to Ghent. The continental monarchs and the crown of Great Britain issued a proclamation against Napoleon, and all the European nations except Sweden joined in an alliance against him. This last contest between the Powers and Napoleon established only more firmly the supremacy of England. In the Atlantic she was supreme and also in the Mediterranean Sea. To free the Ionian Islands a protectory was formed, and Spain and Portugal agreed to extend subjects to her control: --- ---

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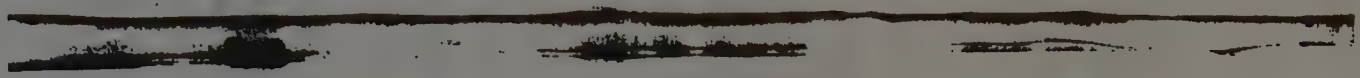
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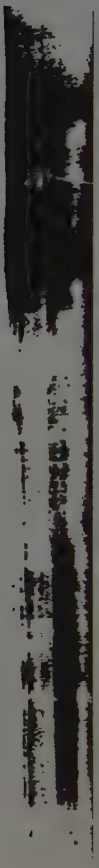
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CHAPTER XIV

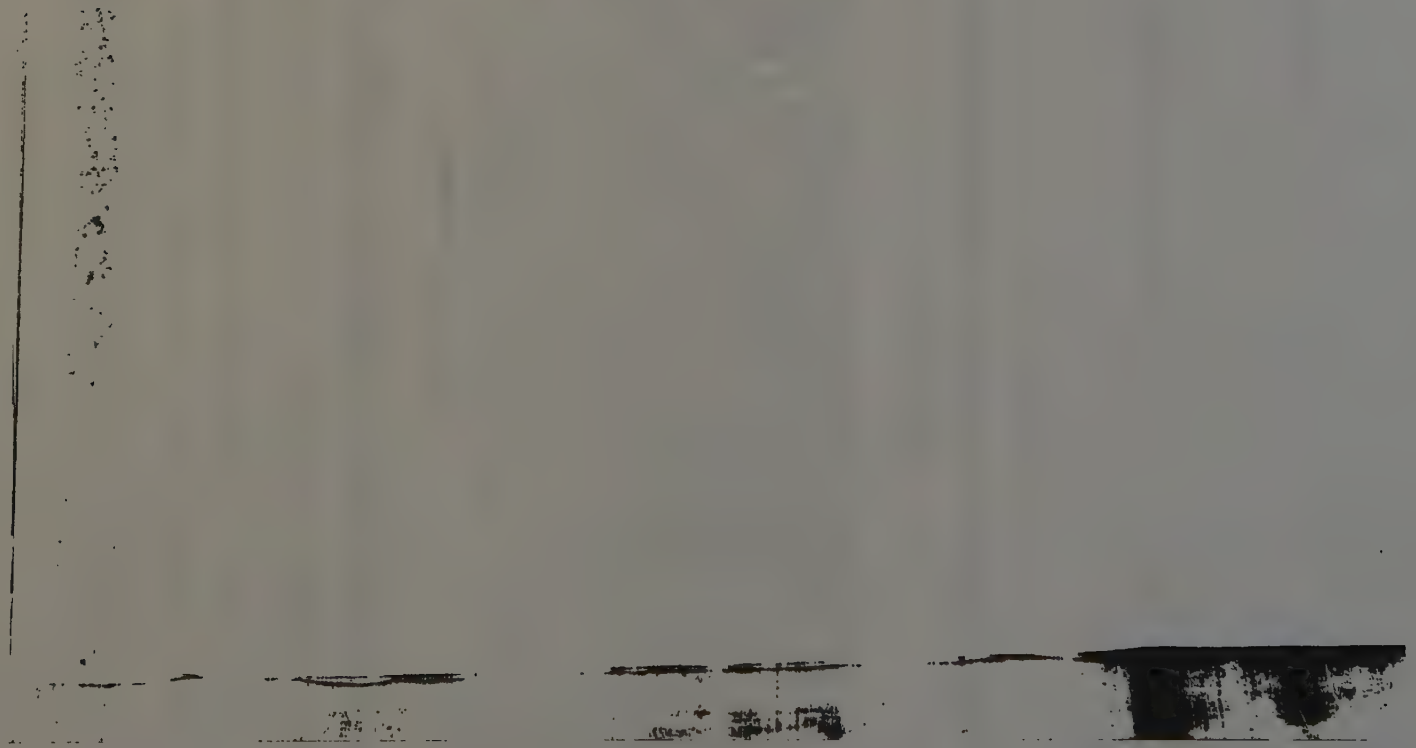
THE HOLY ALLIANCE AND THE DIPLOMACY OF THE ERA OF LIBERALISM.

(1815 - 1840)

Reaction after the exhaustive Napoleonic Wars - The Holy Alliance - The Spread of a Spirit of Liberalism over Europe - The Armed Intervention of France in Spain - Revolt in the Greek Provinces of Turkey - Russian Sympathy and its Moral Effect - Recognition of the Greeks as Belligerents by Great Britain - Interest of the United States on the Ground of Liberty - Greek Declaration of Independence - Protocol between Great Britain and Russia for Greek Independence - Tripartite Agreement at London,1827 - Armed Intervention by Great Britain,France and Russia - Declaration of War by Russia against Turkey - Treaty of Adrianople,September 14th,1827 - Greece erected into Independent State; Revolt in Belgium over Union with Holland - Resulting Convention at London,November 4,1830 - Treaty at London November 15th,1831 for Division of Belgium and Holland - Coercive Influence of Great Britain and France upon the Dutch - Treaty between Belgium and Holland,April 19th,1839; Also treaty between Belgium and Holland and the Five Mediating Powers.

(Tillinghast, pp.485-491).

The long and exhaustive struggles of the Napoleonic wars were naturally followed by a reaction directed to the maintenance of legitimate governments. Of these reactions one of the most remarkable products was the Holy Alliance. It was formed in 1815 between the sovereigns of Russia, Austria and Prussia. The King of France afterwards became aparty to it. England under [illegible] Castlereagh was favorable to the alliance but never became a partyto it. The professed object of the Holy Alliance



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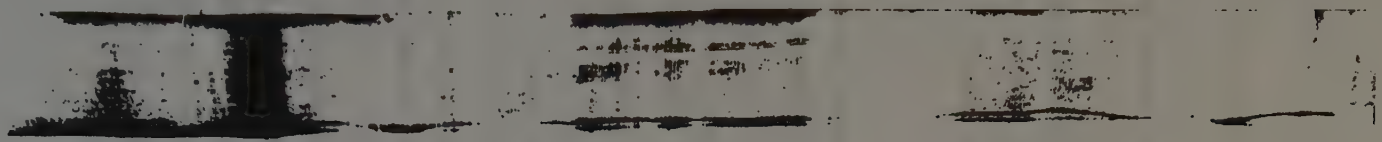
like our own Declaration of Independence. I do not think it was translated into English.

On April 4th,1826,a protocol was signed between Russia and England proposing that Greece should be recognised as an independent state under the [illegible] of the Porte of the payment of an annual tribute. Later in the year the country seemed on the point of being partitioned between Russia and Turkey.

On July 26,1827,a Tripartite agreement of the Greek question was made at London. See British Foreign State Papers,Vol. XIV, p.832. This convention recites the grounds for intervention. The Powers participating agreed to offer mediation to the Porte and to make a demand for an immediate armistice. It was an offer of mediation with a demand for immediate armistice August 27th,England,France and Russia sent a combined fleet to the Bosporus which destroyed the Turkish fleet. Thereupon the Sultan renounced all the treaties with his allies and refused to recognise the Independence of Greece. April 14th,1828,Russia declared war against Turkey.This declaration recites the same [illegible] as the treaty of London,but in more detail.

This Russo-Turkish war was brought to a close by the Treaty of Adrianople September 14,1829. For the text of this Treaty see Hertslet's Map of Europe by Treaty,Vol.II,p.813 et seq. Greece was erected into an independent kingdom under a Bavarian prince;this was fixed up at London,May 7,1832.Hertslet's Map of Europe by Treaty,Vol.II,p.803. Greece was to be independent under the alliance of [illegible],Russia and France. Wheaton's "History of the Law of Nations" pp.650-670 gives a summary of the negotiations and treaties which resulted in the Independence of Greece.

While these events were taking place in the East there was a very important change in Belgium. In the execution of the design to surround France with strong states, the congress of Vienna had united the Belgian provinces to Holland; the union was an unnatural one by the people in the two countries differed in manners, language and religion. From time to time riots broke out in Belgium against the local authorities and on Aug. 25th, 1830 an open revolt occurred at Brussels. This movement became so strong that King William had to oppose it by force for which purpose he got together a large army. The Dutch dukes were driven from many of the Belgian towns. When the government offered to make concessions the victorious Belgians refused them. This resulted in an international conference at London which, met November 4th, 1830; the Powers present were Austria, Great Britain, France and Prussia. It was convoked in consequence of an application of the King of the Netherlands to the British government; it was due to a mediation between the two divisions of the kingdom. An excellent account of this convention and its results [illegible] in Phillimore's History of the Law of Nations, p. 338-353. In the first place the Powers proposed an armistice which was accepted by the Netherlands and Belgium. The Conference laid down the basis of separation between Belgium and the Netherlands. On the 15 November 1830 a treaty was signed for the separation of Belgium and Holland. Then the King of the Netherlands objected to it and renewed hostilities. France and Great Britain [illegible] Belgian territory, and the ports of Holland were blockaded by an English and French fleet. In November 1832 a [illegible] besieged Antwerp. Great Britain and France remained in possession of certain places in



Belgium till the King acquiesced in the treaty. Then on April 19th,1839 a new treaty of peace and division was signed between Belgium and Holland; and on the same day between the two states and the five mediating Powers. For a discussion of this, see Wheaton; and for the text of the treaty, Hertslet's Map of Europe by Treaty, Vol.II.

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British Foreign and State Papers, Vol.IX, p.629 et seq.; XIV, p.632 et seq. (Greek Dec. of Ind., and Tripartite Treaty at London, July 6th, 1827)

Wheaton, Henry (cf.p.143 supra)
History of the Law of Nations, pp.551-568



CHAPTER XV

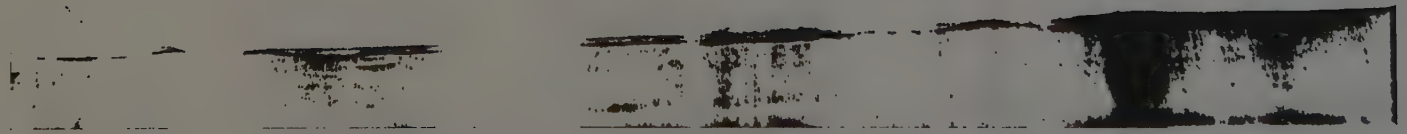
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(1848 - 1856)

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In 1848 the revolutionary spirit of liberalism again broke forth in Europe, and it [illegible] claimed the attention of European diplomacy. The abduction of Louis



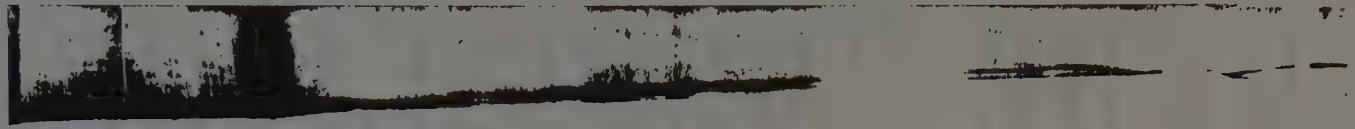
Philip was followed in France by the organization of a provisional government. There is an account of that revolution in Mr Richard Rush's "Occasional Productions" pp.299-320. Rush took decided action himself on the matter. He was asked to recognise the new government and he asked a day to consider the matter after which he recognized it. His action was approved not only by the President, but by Congress.

Following this, revolutionary movements took place in Germany, Hungary and Italy. In the Political Science Quarterly, Vol. X, pp.112-131, there is an article on the Hungarian Revolution, & to some extent about various revolutions. The Austrian power was was stricken and then temporarily restored in Italy; but Victor Emanuel appears as King of Sardinia only later to become the ruler of united Italy.

In Germany the liberalism exhibited a longing for national unity, but Bismark had become a strong monarchist and established the empire. You will find in Bismark's "The Man and The Statesman" (Memoris) Vol.I, Chap.II, pp.22-66 ideas on this that are interesting. He started out in life as a liberal, but could not succeed in the attainment of his object on that line and so became a conservative.

The reign of Louis Napoleon is distinguished by the number and verity of his intrigues in relation to foreign affairs. His disposition is seen in the first great events of his reign - the Crimean War. There is a diversity of opinion about Louis Napoleon not only as to his morality, but as to his ability. We may have seen what Bismark said about him in one of his private letters which has been published. He called him "the great unrecognized incapacity."

The Crimean War originated in a dispute between Russia and

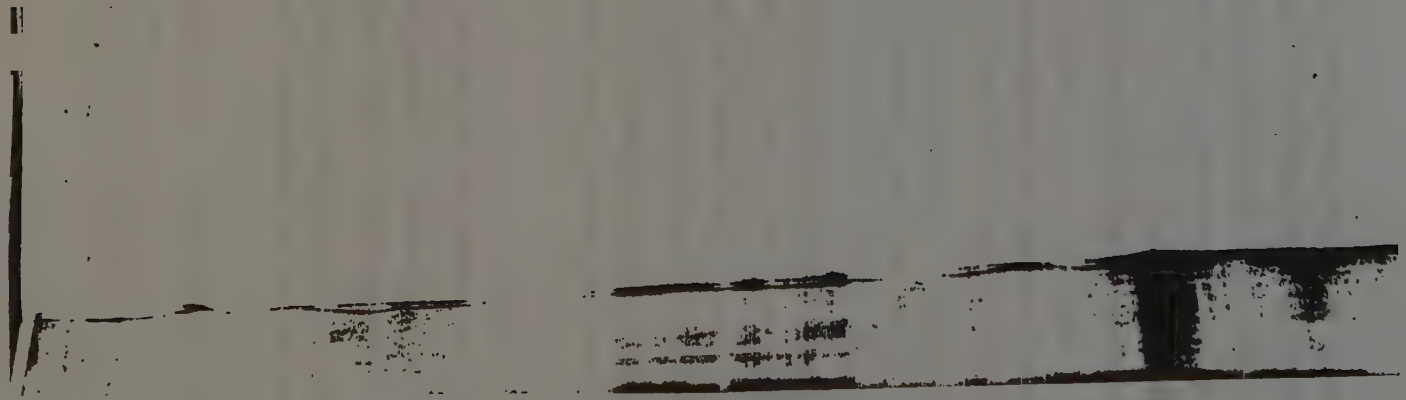


Porte concerning the privileges of the Greek Christians in Turkey, of whom the Czar was the protector. Louis Napoleon as the protector of the Latin Churches intervened as the support of Turkey. Had there been no other foreign intervention in this dispute, doubtless it would have been settled by the submission of Turkey to the Russian demands; but the Sultan was urged by both French and British Ambassadors at Constantinople to reject these demands. See Lane-Pool's Life of "Lord Stratford-Radcliff Canning." In June 1853 a combined English and French fleet appeared in Turkish waters. The Czar advanced into the principalities of Wallachia and Moldavia. This was not the first time that Russian troops had been advanced into these provinces; in 1848 during the Hungarian Revolution they had been advanced into Moldavia; but at that time it was not to threaten Turkey but to forestall revolution.

The Sultan, treating the Czar's acts as a hostile movement, on October 4th, 1853 declared war against Russia. A few days later the Russians attacked the Turkish fleet in the Black Sea and destroyed it. You will find an excellent account of the events leading up to the Crimean War in Debidour's "Histoire Diplomatique de l' Europe" Vol.II, pp.103 et seq. I have found this a trustworthy work. You can generally rely on what he says. The pro-Russian view is in Lane-Pool's "Life of Lord Stratford-Radcliff Canning" which I have mentioned.

You will find the Turkish declaration of war in Hertslet's "Map of Europe by Treaty" Vol.II, p.1171. The opposition view is well set forth in one of John Bright's speeches on the Crimean War. The Russian reply to Turkey's declaration of war was on 20th October 1853. It is brief while that of Turkey is long. (Declaration read from Hertslet's "Map of Europe by Treaty"

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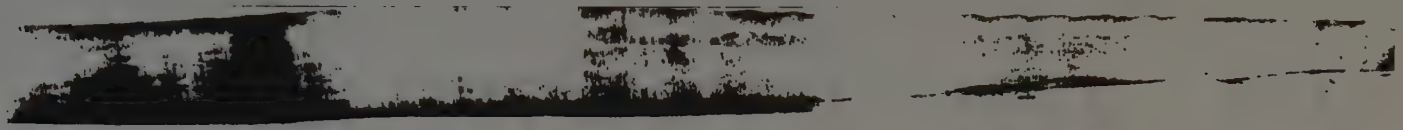
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On the 12th March 1854, Great Britain, France and Turkey signed at Constantinople a convention relative to Military aid to be given to Turkey. Text in "Map of Europe by Treaty" II, p. 1181. On the 27th March 1854 the Queen sent a message to Parliament announcing the outbreak of war. The French notice to the legislative assembly was sent in on the same day. The French declaration of war which is short is as follows:

> The Government of the Emperor and that of Her Britannic Majesty, had declared to the Cabinet of St. Petersburgh that, should the Differences with the Sublime Porte not be restricted within purely Diplomatic Limits, and that, should the Evacuation of the Principalities of Moldavia and Wallachia not be immediately commenced and completed by a fixed date, they would be compelled to consider an answer in the negative or silence as a Declaration of War.
>
> The Cabinet of St. Petersburgh having decided not to answer the above communication, the Emperor desires to inform you of that resolution, which constitutes Russia in a state of War with us, the responsibility of which rests entirely on that Power. (p. 1186)

The British declaration of war is long: (Read from Hertslet, "Map of Europe by Treaty," II pp. 1187 - 1190).

The Crimean War continued until 1856. The basis of peace was made through the intervention of Austria by a protocol signed at St. Petersburgh, January 1856. It was agreed in that protocol that the Russians protectorate over the Danube principalities should be renounced; that the Danube and its Mouths should be free; that the Black Sea should be neutralized and be opened to ships of commerce, but not to war; and that the immunities of Christians in Turkey should be preserved. On this basis a convention was arranged to be held at Paris, February 25, 1856, and an armistice was concluded to last till March 31. This Congress at Paris was held in the same rooms in which that between the United States and Spain was held.

The Treaty of Paris was signed on March 30th, 1856. The signitary powers were Austria, France, Great Britain, Prussia,



Russia, Sardinia and the Ottoman Porte. Prussia had taken no part in the war, Bismark in his Memories disapproved of the policy of Prussia, he insisting on admittance into the counsels at Paris. Prussia had been a party to the convention of July 1841 in respect to the Straits of Dardanelle and Bosporus and this was ground for her admission; and the ground of Prussia's importance in European politics was also urged as reason for her participation in the convention of Paris.

Analysis of Treaty of Paris (1856).

The Preamble to this treaty recites as the basis for the re-establishment of Peace, the agreement to recognise and guarantee the Independence of the Ottoman Porte.

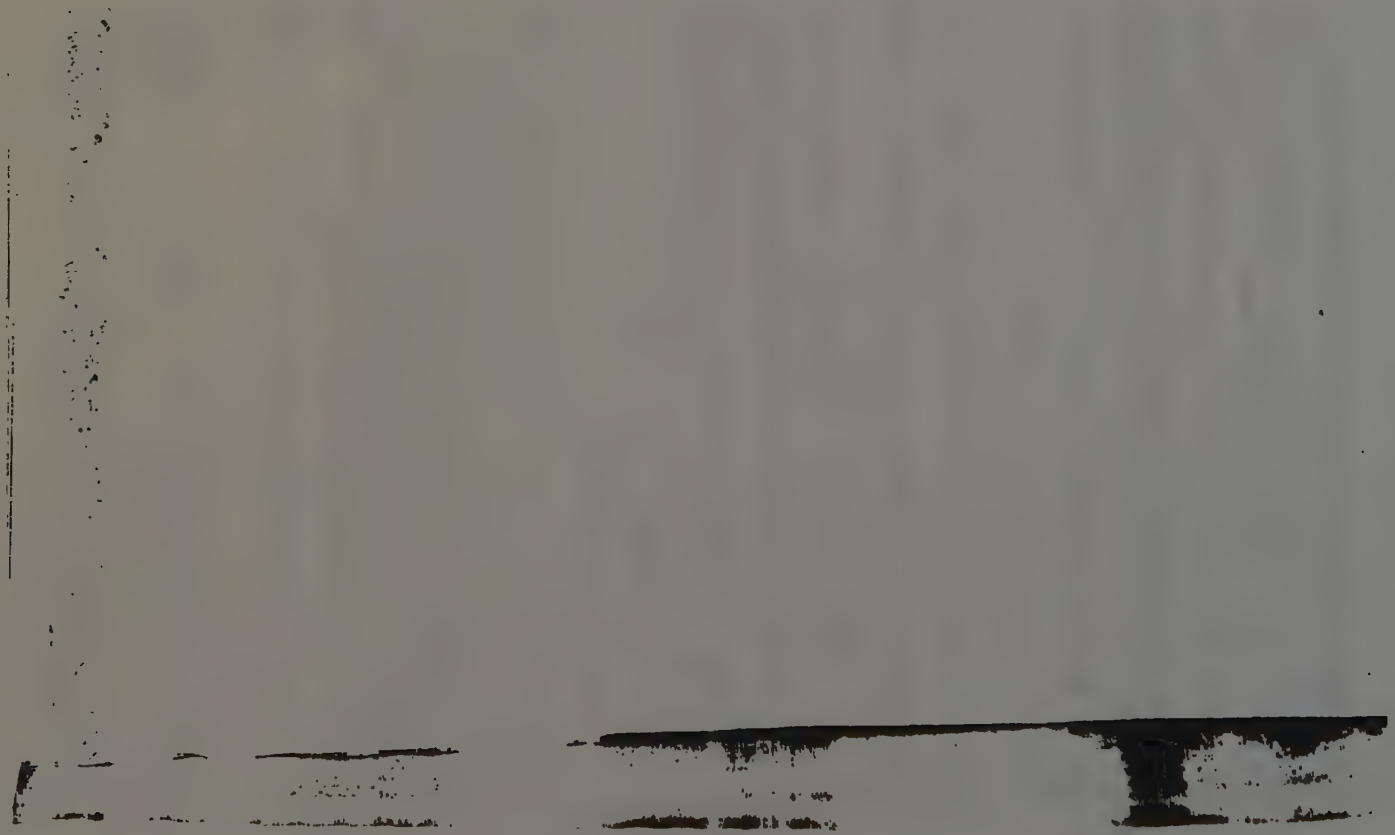
By Article III of the Treaty, Russia engaged to restore the Town and Citadel of Kars and other Ottoman territory which had been occupied by Russian troops, and on the other part the Powers engaged by Article IV to restore to Russia all the territory they had occupied.

Article VII is important:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, His Majesty the Emperor of Austria, His Majesty the Emperor of the French, His Majesty the King of Prussia, His Majesty the Emperor of All the Russias, and His Majesty the King of Sardinia, declare the Sublime Porte admitted to participate in the advantages of the Public Law and System (Concert) of Europe. Their Majesties engage, each on his part, to respect the Independence and the Territorial Integrity of the Ottoman Empire; Guarantee in common the strict observance of that engagement; and will, in consequence, consider any act tending to its violation as a question of general interest.

Article IX also has an important stipulation in regard to the condition of the Christian population of the Ottoman empire

His Imperial Majesty the Sultan having, in his constant solicitude for the welfare of his subjects, issued a Firman (No. 2?7), which, while ameliorating their condition without distinction of Religion or of Race, records in his memorable intentions towards the Christian population of his Empire, and wishing to give a further proof of his sentiments in that respect, has resolved to communicate to the Contracting Parties the said Firman, emanating spontaneously from his Sovereign will.



Non-interference of Allies in Internal Affairs of Ottoman Empire.

The Contracting Powers recognise the high value of this communication. It is clearly understood that it cannot, in any case, give to the said Powers the right to interfere, either collectively or separately, in the relations of His Majesty the Sultan with his subjects, nor in the Internal Administration of his Empire.

The object of Great Britain and France was to exclude any interference such as Russia had made on the ground of religion.

Articles X - XIV relate to the Straits of Dardenelles, the Bosporus and the Black Sea. Article X refers to the convention of July 1841 and says that they have been reversed by common consent and then there was a specific treaty in relation to them annexed to this treaty. (Hertslet II, pp.1266-1269)

By Article XI the Black Sea was neutralised and its waters and Ports thrown open to every nation for commerce, but closed in perpetuity to flags of war either to the Powers possessing its coast or any other Power with certain exceptions; these exceptions were put in separate Articles - XIV and XIX. This is called the Neutralisation of the Black Sea. The main object of the article was to deny to Russia the military use of the Sea, but it was put in this form to make it more palatable. That object is shown in article XIX in which Russia agrees not to establish or maintain on the Coast any Military Maritime Arsenals. However, the treaty of March 13th 1871 abrogated this prohibition of Russia. Russia found her opportunity in the Franco-German War. Bismark put Russia up to this in order to secure the benevolent neutrality of Russia in the War of Prussia against France.

By Article XV the principles of the Congress of Vienna as to the Navigation of Rivers which separate or traverse different States, in future apply to the Danube and its Mouths; and it was also declared that this principle should form a part of the



Public Law of Europe. This was done to secure the support of all powers irrespective of treaty stipulations. To accomplish this purpose a "Danube European Commission" was provided for in the next Article:

Article XVI. With a view to carry out the arrangements of the preceding Article, a Commission, in which Great Britain, Austria, France, Prussia, Russia, Sardinia, and Turkey, shall each be represented by one delegate, shall be charged to designate and to cause to be executed the Works necessary below Isatcha, to clear the Mouths of the Danube, as well as the neighbouring parts of the Sea, from the sands and other impediments which obstruct them, in order to put that part of the River and the said parts of the Sea in the best possible state for Navigation.

Duties to be levied in the Danube.

In order to cover the Expenses of such Works, as well as of the establishments intended to secure and to facilitate the Navigation at the Mouths of the Danube, fixed Duties, of a suitable rate, settled by the Commission by a Majority of votes, may be levied, on the express condition that, in this respect as in every other, the Flags of all Nations shall be treated on the footing of perfect equality. (p.1258)

By Article XXII Russia consented to the restoration of Wallachia and Moldavia to their privileges and immunities under the Suzerainty of the Porte.

The object of Great Britain and France in this was to make every question as to Turkey a matter of European Concern. That was the object of Article XXVII:

If the Internal Tranquillity of the Principalities should be menaced or compromised, the Sublime Porte shall come to an understanding with the other Contracting Powers on regard to the measures to be taken for maintaining or re-establishing legal order. No armed Intervention can take place without previous agreement between those Powers. (p.1262.)

By Article XXVIII it was stipulated that Servia should continue under the suzerainty of the Porte under the collective guarantee of the contracting powers.

For the Declaration of Maritime Law, see Hertslet's "British and Foreign State Papers" Vol. 15, p.1371; also his "Map of Europe by Treaty," II, p.1299.

The Plenipotentiaries who signed the Treaty of Paris of the 30th of March, 1856 (No.204), assembled in Conference,-

Considering:

The Maritime Law, in time of War, has long been the subject of deplorable dispute:

That the uncertainty of the law and of the duties in such a matter, gives rise to differences of opinion between Neutrals and Belligerents which may occasion serious difficulties, and even conflicts:

That it is consequently advantageous to establish a uniform doctrine on so important a point:

That the Plenipotentiaries assembled in Congress at Paris cannot better respond to the intentions by which their governments are animated, than by seeking to introduce into international relations fixed principles in this respect:

The above-mentioned Plenipotentiaries, being duly authorised, resolved to concert among themselves as to the means of attaining this object; and, having come to an agreement, have adopted the following solemn Declaration:

Privateering.

1. Privateering is, and remains abolished:

Neutral Flag.

2. The Neutral Flag covers Enemy's Goods, with the exception of Contraband of War:

3. Neutral Goods, with the exception of Contraband of War, are not liable to capture under Enemy's Flag.

Blockades.

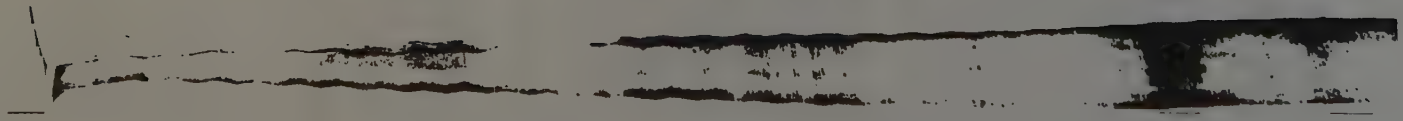
4. Blockades, in order to be binding, must be effective, that is to say, maintained by a force sufficient really to prevent access to the coast of the enemy.

The Governments of the Undersigned Plenipotentiaries engage to bring the present Declaration to the knowledge of the States which have not taken part in the Congress of Paris, and to invite them to accede to it.

Convinced that the maxims which they now proclaim cannot but be received with gratitude by the whole world, the undersigned Plenipotentiaries doubt not that the efforts of their Governments to obtain the general adoption thereof, will be crowned with full success.

The present Declaration is not and shall not be binding, except between those Powers who have acceded, or shall accede, to it. (pp.1858-9).

The United States, Spain and Mexico were the only nations that expressed any dissent. They all objected to the naked abolition of privateering; with that exception the four rules simply represented principles of international law. But the principle of "free ships free goods" was not a principle of international law at that time. But it is now universally recognized as a principle of international law. It was so assumed at the out-break of our Spanish-American war by both parties. There has been much misapprehension about this rule; but our courts have always enforced this rule even in the absence of



treaty. See Hall's "International Law" pp.546-547, and Wheaton's work on Captures. This is a rule that grew out of treaties, many of which were negotiated in the 18th century, with a few in the 17th century, but during the Napoleonic war it was not acted on much. England, then, acted on the common law rule that the owner of the goods and not the free ship was decisive in the matter.

A declaration in favor of Mediation was made by the Plenipotentiaries of Austria, France, Great Britain, Prussia, Russia, Sardinia, and Turkey. An "extract" gives an outline of the discussion and views of the several plenipotentiaries which seem to have been advanced to satisfy the mind of Count Cavour and then the declaration proper follows in these words:

> Whereupon the Plenipotentiaries do not hesitate to express in the name of their Governments, the wish that States between which any serious misunderstanding may arise, should, before appealing to Arms, have recourse, as far as circumstances might allow, to the Good Offices of a friendly Power.
>
> The Plenipotentiaries hope that the Governments not represented at the Congress will unite in the sentiment which has inspired the wish recorded in the present Protocol. (p.1279).

This declaration is one often referred to, and great hopes have been expressed of a practical realization of the principle embodied in it. This is a principle that was given much weight at the Hague. Mediation is simply diplomacy, and the parties to the conflict are not bound to accept the suggestions which can be settled by arbitration. That is the declaration of which so much has been said in the books and which has given rise to so many expressions of regret that the plan for mediation was not more effective.

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CHAPTER XVI.

ALLIANCE OF FRANCE AND SARDINIA AGAINST AUSTRIA AND THE UNIFICATION OF ITALY.

(1859 - 1861)

Alliance between Louis Napoleon and Cavour on behalf of Sardinia against Austria - War between Austria and Sardinia Italy - Preliminary Peace of Villafranca between Louis Napoleon and Austria - Effect of Napoleon's Duplicity in Italy - Progress toward Italian Union.

(Tillinghast, pp.502-503).

In 1858 Louis Napoleon entered into an agreement with Cavour to support Sardinia in case of war with Austria. It was also agreed that Lombardy and Venicia should be annexed to Sardinia to form the Kingdom of North Italy and that Savoy and Nice should be ceded to France.

War was brought on by Austria demanding that Victor Emanuel should disarm. He refused. The Austrian army was set in motion, and Sardinia was supported by France to repel the invasion. Austria was defeated and Tuscany, Parma, Bologna and Modena abandoned by their rulers, offered their sovereignty to the Sardinian King. At this moment, however, Louis Napoleon who looked with apprehension on the rise of a too strong central power in Italy, concluded with the Austrians at Villafranca, July 12, 1859 a preliminary [illegible] to Sardinia while Austria was to retain Venecia and the quadrilateral - four provinces - and the fugitive rulers were to be re-

stored in Tuscany, Parma, Modena and the Roman legations; and a federation was to be formed in Italy under the presidency of the Pope. See Bolton King's History of ~~the Unification of Italy~~ Italian Unity." Louis Napoleon's allies were greatly incensed at this treaty. Cavour insisted that it should be rejected, and resigned when his advice was not followed. Victor Emmanuel accepted it on the assurance from Napoleon that he would not allow the rulers of the abandoned provinces to be restored by force.

The Italian people then took the matter into their own hands and declared for annexation to Sardinia. The favor with which Victor Immanuel received their advances led to his reconciliation with Cavour who was returned to power, and in May 1860 Tuscany, Parma, Modena, and Romagna were annexed to Sardinia. Venetia remained temporarily under Austrian rulers, while Nice and Savoy were ceded to Napoleon. This preliminary Treaty of Villafranca was ratified and completed by the Peace of Zurich, November 10th., 1859. By 1861 all of Italy except Venetia was united to the government of Sardinia, and Victor Emmanuel was proclaimed King of Italy.

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CHAPTER XVII

THE PEACE OF PRAGUE AND THE FRANCO-PRUSSIAN TREATY OF 1871.

(1866 - 1871)

Causes of the War between Austria and Prussia - Peace of of Prague, August 23,1866 - Treaties ofAlliance between Prussia and Baden,Bavaria and Wurtemburg - Jealous but futil Efforts of France to obtain Luxemburg and secure an Alliance with Austria- Causes of the Franco-German War: Abdication of Isabella and Bourbon Candidacy for the Spanish Throne - Bismark's Intrague to make Leopold Spanish King - Alarm and Opposition of France to Leopold - Negotiations between Benedetti and King William - The Real Causes of the War,Remote and Approximate - Bismark's modification and use of the Ems Telegram - French Declaration of War and Bismark's Explanation - Bismark's subsequent Justification of his Acts - Estimates of Louis Napoleon, Due de Gramont and Bismark - Benedetti's Justification of his Diplomatic Work- Franco-German War - Treaty of Peace at Frankfort, May 10th 1871.

([illegible], pp.507-520).

While the events were in progress that led to the exclusion of Austria from Italy, opposition to Austrian influence in Germany was rapidly gaining force. After obtaining the assistance of Austria in wresting Schleswig and Holstein from Denmark Bismark who had kept Schleswig for Prussia,annexed Holstein which had been placed under Austrian rulers,by the treaty of Gastein,August 14,1865. In the war that followed Austria was completely defeated.

The results of the [illegible] Treaty of Peace of Prague,August 23,1866. See the British and Foreign State Papers Vol.56, p.1050-8 for text of the treaty. also Pol. Con. U.S. 1866, Pt 2, p. 748

Austria withdrew altogether from the German Confederation and gave up all claims to Holstein. Saxony was partially restored to independence, but Hanover, Hessen, Nassau and Frankfort remained in Prussian possession. Venetia was ceded by Austria to Italy.

The victory of Prussia was followed by the formation of the North German Confederation and of the Customs Union with the princes of the South German States. Treaties of alliance were also concluded between Prussia on the one hand and Baden, Bavaria and Wurtemberg on the other.

In France the success of Prussia created great dissatisfaction. Moreover, the emperor having failed in Mexico, found his prestige in Europe greatly diminished. The quick triumph of Prussia was to him unexpected. He endeavored to obtain Luxemburg from the King of Holland but was thwarted by Prussia. He sought an alliance with Austria but failed in this project also It was not long, however, before an opportunity was found in the affairs of Spain to attempt to reassert the position of France in Europe.

We now come to the long chronicle of the Bourbon candidacy for the crown of Spain. Of course the general cause of the Franco-German war was the success of Prussia in the Austrian war. The position of France in Europe was menaced by this ascendency of Prussia. That was why France tried to get Luxemburg for a military station. Now in regard to the out-break of the [illegible] information in Heinrich von Sybel's "Die Begründung des Deutschen Reiches durch Wilhelm I", Bde. VI & VII. For a summary [illegible] see "The Nation" Vol. 60 (Mch. 14, 1895) pp. 204-5; 223-224 (Mch 21, 1895) And then Benedetti who was the ambassador from France in

Prussia has written a work "La Mission en France". See also "Studies in Diplomacy" Translated from the French of Count Benedetti London and New York, Macmillan & Company, 1896.(For a review of this translation by Prof.Moore, see The American Historical Review Vol.I, pp.747-748).

The flight of Queen Isabella from Madrid etc.,She was unpopular in Spain by reason of her character as well as for other reasons; after her flight,she took refuge in France.For the Spanish throne thus left vacant,there were several Bourbon candidates,but none of them were acceptable,so it was offered to Prince Leopold a Bonepart. When it was announced that it had been offered to him, it was looked upon as a scheme of Bismark to wedge in France between two neighboring Powers. It was,however,denied at the time that Bismark had anything to do with it but we now know that he suggested it and sent an agent to Madrid to suggest it. This opposition by the ministers of France Charles and Spanish statesmen. Great excitement in France and the candidacy of Prince Leopold was withdrawn.

The dispatch from King William respecting what had taken place between him and Benedetti is very important. Bismark was at dinner with Moltke and Roon,the minister of war,on 13th July 1870,and when he received the telegram,Bismark so changed it that the last sentence read as if the German emperor had terminated diplomatic relations with Benedetti. And the publication of this modified portion provoked the French to declare war. After the war Bismark explained that he did not turn that and produced more of the telegram to prove his point. This whole affair did not come out till [illegible],when the original text of this telegram was published. For a general account of this matter see, Bismark's "Memoirs" ("The Man and

the Statesman" Vol.II,97-103). Bismark rests his case on the general attitude of France and the belief that war was bound to come; and as Germany was then ready for war while France was not, it was better for Germany to have it then. He does not seem to have had any special information of that special French mission to Austria or of the armed alliance that is alleged to have been made.

I think that Louis Napoleon had at this time lost the power of decision and action; he had always been a dreamy man and at this time had bad health. You will find some correspondence between Washburn and our government that will throw some light on this subject; it was published by our government in 1877. Duc de Gramont, the French minister of Foreign Affairs was a stupid, obstinate and impetuous man - bad qualities for a diplomat; he kept wanting more. There was never anything sadder from one point of view, than that of such a man as Duc de Gramont in the hands of Bismark. A well written book entitled "Who is Responsible for the War" was published in London in 1876. It is a good book to read in connection with this subject.

The earlier German advances were made at enormous cost but they resulted in putting into the field a large army. The French were miserably equipped and numerically inferior to the German forces. But the great mistake of the war from the French side was made by Bazaine when he shut himself and his army up in Metz.

By the treaty of peace signed May 10, 1871, at Frankfort on Main, France ceded Alsace-Lorraine and agreed to pay an indemnity and to support the German army pending its withdrawal. On the 18th of the preceding January, King William of Prussia was proclaimed German Emperor. It was a delicate point to decide

whether he should be called "German Emperor" or "Emperor of Germany". The great result of the Franco-German war was the realization of the political unity of the German nation.

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CHAPTER XVIII.

THE EASTERN QUESTION AND THE CONGRESS OF BERLIN, 1878.

(1878 - 1878)

Revolt against Turkish Government in Herzegovinia and Bosnia - Sympathetic Support from Montenegro and Servia - The Intervention of Russia - The Treaty of San Stefano, March 3rd 1878 - Demand of England that the Treaty be submitted to a European Congress - The Congress of Berlin, June 13 - July 13, 1878 - Analysis of the Treaty of Berlin.

(Tillinghast, pp. 521-524).

Since the conclusion of the Franco-German war the most perplexing question of European diplomacy has been the "Eastern Question" in which Russia has been the chief factor.

The Crimean War was known to have been a mistake. Indeed, the whole course of events since then has been due to the policy of that war. It may have been unnecessary and it may have been a mistake, but it was not a failure.

In 1875 an insurrection in Herzegovina and Bosnia, assisted by sympathizers from Servia and Montenegro again centered the attention of Europe on that question. It was considered that a reformation in the government of the provinces was needed but the Powers seemed unable to intercede with any effect. At this stage Russia intervened. Opportunity for her intervention was afforded by the Bulgarian atrocities. Baylor who was the United States consul in Turkey brought this matter to public

attention. He went to Bulgaria and looked the matter up; then wrote letters to Gladstone about it. His conduct in the matter led to his recall. X E Schuyler: "Memoirs" 1901, p76 II

Turkey was compelled to accept the Treaty of San Stefano signed on March 3rd., 1878, by the terms of which Roumania, Servia and Montenegro were recognized as independent and the tow latter received considerable additions of territory. The treaty also contained other provisions which increased Russian power in the East; for this reason England demanded that the Treaty be submitted to an European congress. The result of this demand on the part of England was the Congress of Berlin. On July 13th., 1878 the Treaty of Berlin was signed. Bismark knew as well as any statesman that if you want to do anything the sooner it is done the better, but if you do not wish to accomplish the avowed object, delay is the proper tactics. See Bismark's Memoirs.

Now as to the contents of the Treaty of Berlin:

Arts. I-XII relate to Bulgaria which was divided into two parts: Bulgaria proper, and East Roumelia. Bulgaria proper was entitled an "autonomous and tributary principality" under the suzerainty of the Sultan of Turkey, and it was to have a Christian government and a national militia. The Bulgarian Constitution was signed at Tirnova, April 16th., 1879. See the British and Foreign State Papers, Vol.670, pp.1303-18 for the French text of this constitution. The treaty provided that the Prince of Bulgaria should be formally elected by the people, and confirmed by the Sublime Porte with the assent of the Powers. Princes of the reigning dynasties of the great Powers were excluded from the list of eligible candidates. Prince Alexander

son of Alexander of Hesse, was elected Prince with hereditary right by the Constituent Assembly of nobles at Tirnova, on the 29th. April 1879. He assumed the government 28th. June of the same year; on July 26th. the Sultan confirmed his election and the other Powers assented individually. On the 21st. August 1886 he was forced to abdicate by a military revolt, but returned on the 29th. and resumed the government upon the request of the Powers. He abandoned the throne, however, on the 7th. September 1886, and a provisional National Regency was established. On the 7th. July 1887 the National Assembly unanimously elected as Prince of Bulgaria, prince Ferdinand of Saxe-Coburg who had been approved by the Powers in March 1886. He accepted and assumed the government the 14th. August 1887. See British Foreign and State Papers, Vol. 78, pp. 686-691, 845-865, 915-918 for communications from the British representative in Bulgaria to the English government regarding these political changes.

Arts. XIII-XXII relate to East Roumelia which was to have a Governor-General appointed by the Porte with the assent of the Powers for a term of five years. Under this provision two governors were successively appointed, but in September 1885 the second one was deposed by a revolution. A provisional government was then formed and Prince Alexander of Bulgaria was proclaimed Governor-General. By a protocol signed at Constantinople on the 5th. April 1886 the treaty Powers including Turkey agreed that the governor-generalship should be intrusted to the Prince of Bulgaria.

Art. XXIII contains various stipulations: For one thing it puts the Christians on the same footing as the Mussulmans in many respects. In a note of the 2nd. March 1887 the great Pow-

ers, Great Britain, Austria-Hungary, France, Germany, Italy, and Russia, agreed: first, that the island of Crete should not at present be annexed to Greece; second, that the island should have an autonomous regime. In December 1898 they appointed Prince George of Greece as Governor for three years.

By Art.XXIV the frontiers of Greece were rectified; Greece getting a part of Epirus and Thessaly from Turkey.

Art. XXV relates to Bosnia and Herzegovina. These provinces were to be occupied and administrated by Austria-Hungary with the exception of the district of Novi-Bazar in which Austria-Hungary had only the right to keep garrisons and a military force, while it was civilly administered by Turkey. In July 1878 an insurrection occurred in Herzegovina and Bosnia and Austrian troops occupied these territories. See British Foreign and State Papers, Vol.69, p.1107 for the French text of the Proclamation of the Austrian government on July 28th, regarding this occupation. On the 20th. December 1879 both Bosnia and Herzegovina were by law included in the Austro-Hungarian "Customs Union".

Arts.XXVI-XXXIII relate to Montenegro, the independence of which was recognized, the boundries defined, and the freedom of religious creed and worship granted.

Arts.XXXIV-XLII relate to Servia to which a sort of qualified independence was granted.

Arts.XLIII-LI relate to Roumania, the conditions regulating which were practically the same as with Servia.

Arts.LII-LVII provide for the destruction of all fortifications on the River Danube below the Iron Gates, inhibiting the navigation of those waters for vessels of war; and continu-

ed in power the International Commission for the regulation of navigation.(cf.pp.174-175 supra)

Arts.LVI-LX relate to Asia: Turkey ceded to Russia Ardaghan, Kars and Batoum; Batoum was declared to be a free port essentially commercial. On the 3rd.July 1886, however, Russia announced that Batoum would no longer be a free port but that its essentially commercial character would be pursued(?). To this Great Britain protested.

Art. LXI deals with Armenia: The Porte undertook to carry out the reforms agreed upon and to guarantee the protection of the Armenians against the Kurds. And by Art.LXII the Porte proclaimed the principle of religious liberty; the particular religious confession was no longer to work incapacity. The right of diplomatic and consular agents to protect Christian communities was again recognised.

By Art.LXIII the Treaty of Paris of 1856 and the Treaty of London of 1871 were declared to be maintained in all provisions which were not abrogated or modified by the present treaty.

Immediately after the conclusion of this Treaty, a Convention between England and Turkey was signed on the 14th.July 1878, by which it was stipulated that Batoum, Ardaghan and Kars or any of them should be retained by Russia; and if any attempt should in future be made by Russia to take possession of further Territory of the Sultan in Asia, England would assist the Porte in defending his possessions by force. In return the Sultan promised to introduce necessary reforms to be agreed upon later in these territories; and in order to enable England to make [illegible] provisions for [illegible] the Sultan assigned the Island of Cyprus to be occupied and administered by England.

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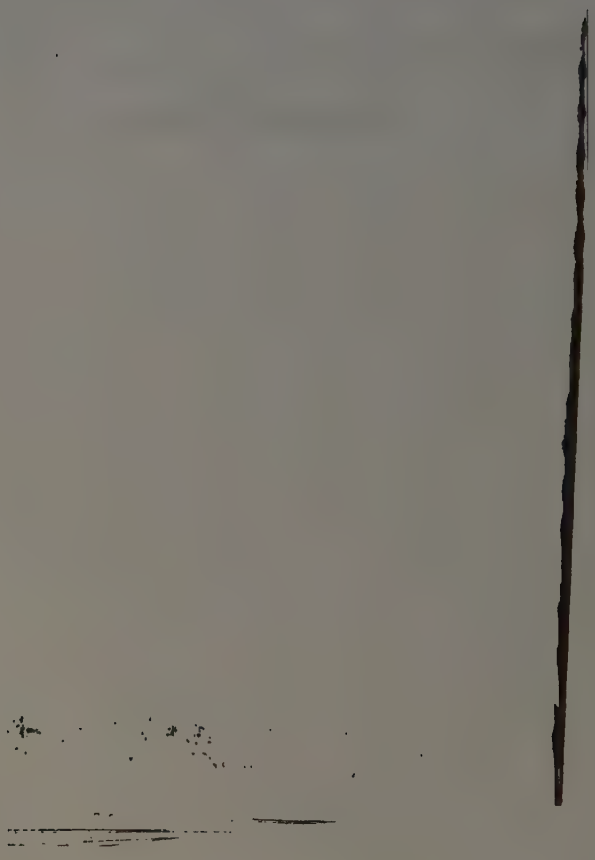
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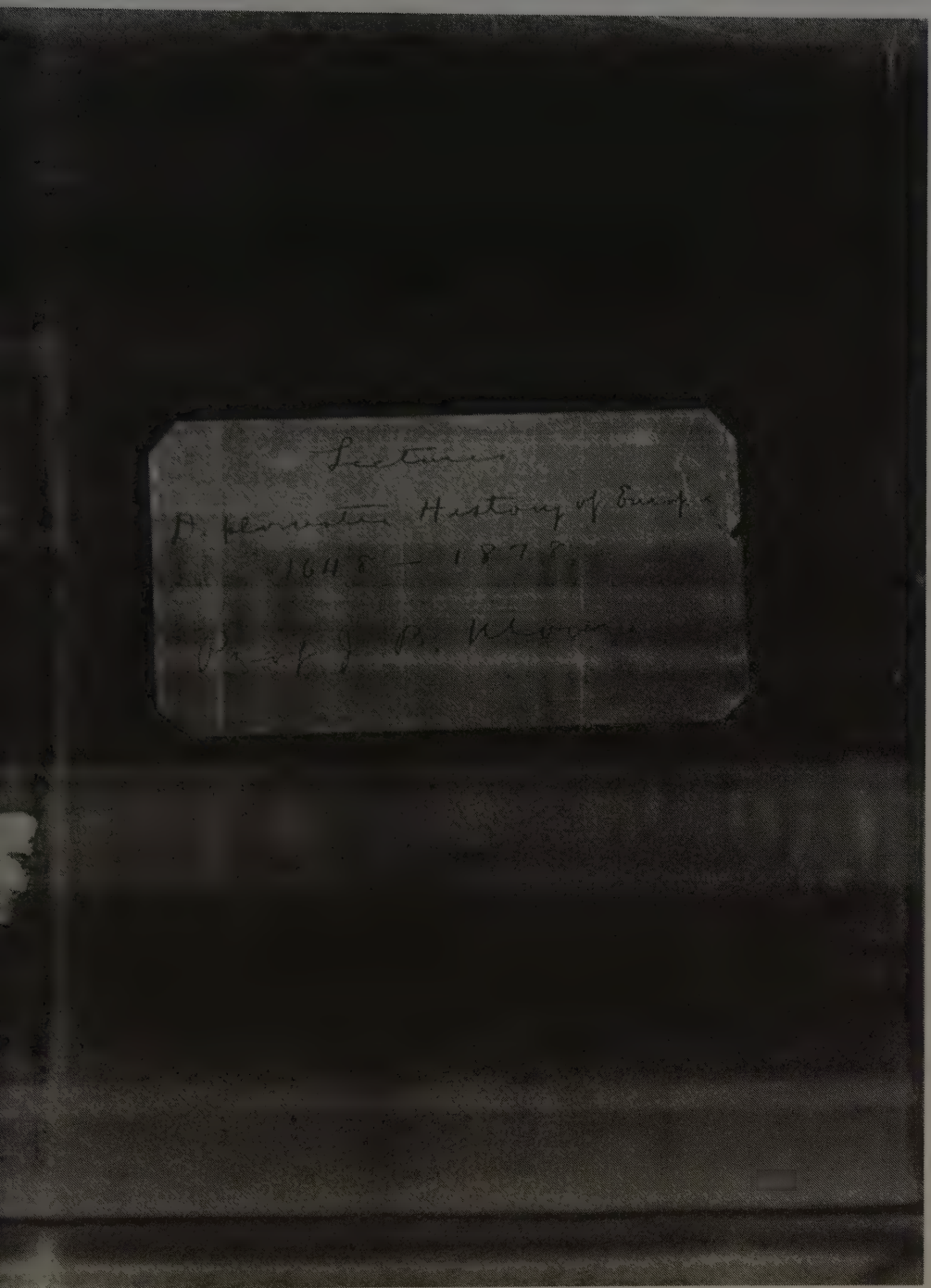
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(The End of Course 6)




Lectures
1648 – 1878

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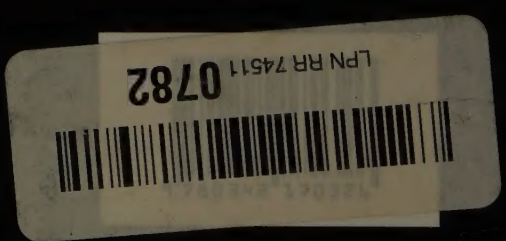
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